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A Handbook
of the
MONTANA COAL
SEVERANCE TAX

Prepared
for the
Coal Tax Oversight Subcommittee



Montana Legislative Council

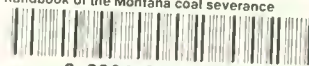
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A handbook of the Montana coal severance



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A HANDBOOK
of the
MONTANA COAL SEVERANCE TAX

Prepared for the
COAL TAX OVERSIGHT SUBCOMMITTEE
50th Legislature

by
Paul E. Verdon, Researcher
Research Division

June 1988

Published by



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PREFACE

During their first meeting of the 1987-88 biennium, the members of the Coal Tax Oversight Subcommittee noted the lack of a single source book containing all of the historical background information necessary for full understanding of the genesis, development, and implementation of Montana's coal severance tax and of the distribution, utilization, and preservation of its proceeds. To remedy this failing, the Subcommittee asked that its staff compile a handbook to embody the information needed to assess the role of the coal severance tax in Montana's future from the perspective of its historical application and in relationship to other taxes impacting the mineral industry. This document is the fruit of that request. It is offered not as the final authority on the subject, but as an easily usable compendium of the status of the Montana coal severance tax as the state enters an era of reduced tax rates.

THE DEVELOPMENT OF THE COAL MINING INDUSTRY IN MONTANA

The abundance of coal in Montana was recognized long before the final third of the 20th century when the sudden interruption of the flow of oil sent petroleum prices soaring and gave readily available coal a new importance as fuel for steam-electric turbines. The new demand created an opportunity for enactment of Montana's coal severance tax in 1975, with its promise of a bonanza for the state.

A century earlier in the waning days of the bloody summer of 1876, as General George Crook led his hungry soldiers across southeastern Montana in pursuit of Crazy Horse's Sioux warriors, who had two months earlier defeated the soldiers at Rosebud Creek in a preamble to the event that engraved Little Bighorn into military history, a reporter accompanying the command observed and commented upon the frequent outcroppings of coal. Only a few years later, after the railroad brought to Montana its insatiable appetite for fuel, the first significant coal production in Montana was recorded in 1884 at the Gallatin-Park County divide between Livingston and Bozeman, followed soon by the opening of coal fields in the Great Falls and Cascade County area and the opening of the Red Lodge-Carbon County mines. Roundup-Musselshell County mines came into prominence with the arrival of the Milwaukee Railroad after the turn of the century, and finally, in the twenties, the Northern Pacific Railroad opened the extensive seams in the Colstrip area in Rosebud County.

"In reality, the early coal mining years of Montana belong to the past and their influence and resurrection for the future is probably nonexistent," wrote Dr. Thomas Finch of the Montana College of Mineral Science and Technology. "The mines served special markets and required extractive

techniques that are not economically transferrable to the present." Dr. Finch made his comments to the Coal Board's 1988 Montana Coal Symposium held in March.

Coal's initial dominance of the Montana energy scene was brief, and by the early 1950s coal lost its dominance as the many advantages of oil and gas and the temporary sufficiency of hydroelectric power in the Pacific Northwest rendered coal noncompetitive. After the railroads' conversion to diesel power decimated the value of coal, the Northern Pacific Railroad dealt off its Colstrip reserves to the Montana Power Company, and, within a decade, the utility company embarked on a long-range program to produce coal for its own Billings generating units and later for the Colstrip plants and for other utility customers in the Midwest. The rapidly declining United States oil and gas reserves and the actual and threatened oil embargoes by the Arab producers in the 1970s attracted to the Powder River Basin mining companies that laid aside topsoil at a dozen locations in Montana and in its neighbor states to open the coal beds.

Until the energy boom of the 1970s, Montana normally contributed less than 1% of U.S. coal production. In recent years, the state has produced 3% to 4% of the U.S. total, an output that is limited by distance from markets and the low energy content of Montana coal.

Dr. Finch traced the background of Montana's century-old coal industry in his paper entitled History of Montana Coal Mining, which, with Dr. Finch's permission, is excerpted here.

. . . Initially, coal was developed to produce coke and Montana was fortunate in having coking coal . . .

Aside from the Great Depression, Montana

enjoyed a relatively stable production through the 1920's and 30's. In fact, mine production in 1936 was notable as the miners had the highest production per manshift (10 tons) in the country. Montana's production capability apparently peaked out at about 4 million tons per year. On an average, 3 million tons per year was a comfortable output figure from 1910 until the decline of 1950.

During the 20-year hiatus from 1950 to 1970, Montana coal suffered severely. Our hydroelectric capability satisfied energy demands and plentiful gas supplies slashed coal use to a minimum. Ultimately, electrical demand surpassed hydro ability and coal development bloomed. Federal emission regulations and the energy crunch focused new interest on Montana's coal resources. Production zoomed until state taxation stifled further development and Montana appears to have settled into a 30 million ton a year level.

Montana's production may increase slowly and even be impacted by local consumption. The future is probably controlled more by legislation than by quality, mining ability or demand. As a state containing the largest reserves of accessible coal, Montana's contributions to the U. S. economy is [sic] marginal.

AREA HISTORIES

Bozeman Fields

After initial mining at Lignite in eastern Montana, the fine coal available near the right-of-way at the "Bozeman" mines inspired the Northern Pacific Railroad to develop the Timberline Mine east of Bozeman in January, 1883. Reportedly, the 10,000 tons of 1883 and the 56,000 tons of 1884 all went for railroad consumption. Some waste from the Timberline and the Mountainside Mine a mile to the west may be seen south of I-90 between Bozeman and the pass. Montana's first sensitivity to out-of-state competition was apparent in 1886 when a strike at the Timberline Mine allowed the N.P. to acquire coal from their mine at Roslyn, Washington.

As usual, many small operations began with railroad transportation available. In 1882 through 1886 mining of more import began at Cokedale, five miles west of Livingston on the east portion of the Bozeman field. Owned by the Livingston Coal and Coke Company, Cokedale existed for 20 years until 1906 and shipped coke from its 100 ovens to the smelters of Montana. 1893 was a big year with 58,000 tons of coal coked.

Simultaneously, Montana's best quality coal was developed at Aldridge and Horr, across the river and a few miles north of Gardner [sic]. Ultimately, Montana Coal and Coke Company - an Anaconda Co. associate - developed the camp in 1896. Coke had been shipped to Butte for the 10 years preceding. A lengthy run of coke ovens still remains. Despite its place as Montana's best quality coal, the camp died in 1910. Of some note, is the unionization by the Western Federation of Miners in April, 1897.

Significant mining in Park and Gallatin counties ended by 1910 as production was displaced by more accessible coal that was easier and cheaper to mine. Improved intra-state transportation and equal coking quality of flat lying seams wrote the demise of this, the first coal mining area of Montana. The area produced an average of 70,000 tons per year for 25 years. Maximum production occurred from 1895 to 1900 when over 120,000 tons per year were produced.

Great Falls Fields

Interest in Cascade County mining began with minor development in 1885. Interestingly enough, the competition and comparison for the market here was with Fort McLeod and Coal Bank (Lethbridge), Alberta. Ease of mining and quality led to development at Sand Coulee in 1887. In September, 1888, rail connection was completed and heralded an era of mining that continued until 1947 when dieselization destroyed the railroad market. The importance of transportation to this area is notable as the 1888 Montana production totaled 41,000 tons and in 1889 it jumped to 363,000 tons. Suddenly, coal was economically significant to Montana.

Sand Coulee, Stockett and Belt were all contemporaries and their development was a function of Great Northern Railroad demand and Anaconda smelter consumption. The Castner Mine at Belt opened in 1885, had 100 coke ovens and coked 40,000 tons of coal in the first year of 1895. The mine was sold to Anaconda in 1889, and operated until 1913. Lochray Coal at Sand Coulee replaced this from 1914 until 1924. The Great Northern Railroad supplied itself with coal sequentially from the Merkle Mine in Belt, the Nelson Mine in Sand Coulee, the Cottonwood mines in Stockett and finally in Giffen, south of Stockett. A large portion of this coal was used for home heating across Montana and North Dakota.

Overall, the Cascade County mines climbed steadily to a peak of 1.27 million tons in the 1918, WWI boom. Employment in the area reached 1200+ miners, but production wandered from 300,000 to 600,000 tons for most years. Production seems to have been quite market sensitive once Red Lodge in Carbon County became a strong producer. This sensitivity implies a poorer coal quality associated with the difficulties of extracting thick seams interspliced with thick (1 to 2 feet) shale partings. These partings do not lend themselves to easy mechanized mining and quality control leaving a marginally competitive reserve.

Lewistown Field

Although not an essential part of Montana's coal production history, Fergus County experienced a remarkable, albeit brief boom in 1909, 1910 and again in 1916 to 1920. Jumping from a lowly production of 23,000 tons in 1914, the county produced something in the order of one quarter to one third of a million tons by 1918 and 1919. It immediately declined to its former glory, never to be important again. The field is considered to be an eastward extension of the Great Falls' area coal.

Red Lodge-Bear Creek Field

Rocky Fork Coal Co. began development at Red Lodge in 1887, and by 1891 the mines at this

location were the largest producers in the state. The company had a ninety-nine year contract to supply the Northern Pacific Railroad. Competition with Cascade County's introduction of mining machinery in 1893 left them a poor second. The quality of coal is apparent, however, by the acquisition of Rocky Fork by Northwestern Improvement Co., a subsidiary of the Northern Pacific.

In 1895, Carbon County became an identifiable reality and production stood at 184,000 tons. By 1906 the Rock Creek East Mine at Red Lodge belonging to the N.W. Improvement Co. produced over a third of a million tons, and the county total was one-half million tons. Cascade County produced twice as much but had a poorer lead for the preceding five years.

In 1907, work began on the West Side Mine in Red Lodge. The two (East and West) became known locally as the Sunrise and Sunset mines. This mine combined with the arrival of the Yellowstone Park spur to open the Bear Creek Field in 1906 pushed Carbon County over Cascade County by 1908, and they never looked back.

In 1910, the Bear Creek Mines just east of Red Lodge belonged to the Washoe Copper Co. of Butte, Montana Coal and Iron Co. of the Northern Pacific, Bear Creek Coal, International Coal and finally but certainly not by modesty, the Smokeless and Sootless Coal Co., another Northern Pacific mine. By 1918, 1800 miners in the county had increased production to nearly 1.8 million tons.

The mines in this area produced high quality coal that was equally functional in homes, mine plants and railroads. The quality maintained the market although the seams dipped and were rather gassy. Montana's only major coal mine disaster occurred at Montana Coal and Iron Company's Smith Mine at Bear Creek on Feb. 27, 1943. A gas and coal dust explosion killed 74 miners.

The railroad on the Bear Creek side suspended operations in July 1953, and the only remaining mine, the Brophy, trucked into Red Lodge until the middle 60's. Beartooth Coal, a subsidiary of Portland General Electric, attempted to reopen the Brophy No. 2 Mine in

1978 but stopped after a year as bad roof and decreasing market demands removed any impetus for new underground mining in Montana.

The depression of the 1930's seemed to reduce interest in coal production in this area. The problems of mechanized mining in split seams sealed its fate, and maximum demand in 1944 only yielded 637,000 tons.

Roundup-Bull Mountain Field

The Mammoth Coal Seam near Roundup was a twelve foot acknowledged fact in 1883. The Bull Mountain Field was awaiting, and it waited until the Chicago, Milwaukee and St. Paul Railroad arrived in 1907. By 1908, the Republic Coal Co., a railroad subsidiary, opened Republic Mines 1 and 2. Roundup Coal Co. began the same year. Three years later, county production stood at 700,000 tons.

Maximum production matched Cascade County in 1918 when 1000+ miners produced 1.2 million tons. As a testament to the quality and good mining conditions, production held at about a million tons per year until the depths of the depression. The fact that a large percentage of the coal went for home heating also stabilized the demand. World War II brought tonnages back to 1.1 million tons. Natural gas heating and railroad oil burners promoted a constant decline from 1946 until the early 1960's.

The Bull Mountain Field contains a number of minable coal seams of good quality. The mines had little gas and very good roof conditions. They were mechanized and showed good productivity. Consolidation Coal opened a test pit in 1971, removing 39,000 tons. The mine didn't materialize as the Bull Mountain Land Owners Association offered considerable opposition. The area is still the scene of a few local mines producing a total of 20 to 30,000 tons per year by surface methods. The Bull Mountain Field is one of the most promising state locals [sic] after the easily strippable eastern Montana deposits are considered. It is certainly the most viable site for underground development.

Colstrip-Rosebud Field

The vast coal resources of Eastern Montana were apparent from the day Lewis and Clark noted the "Big Dirty" seam across the river from Miles City. The Northern Pacific acquired considerable reserves of coal with the odd numbered section grants to build the railroad. In 1913, their geological work demonstrated 90 million tons of strippable coal with less than 100 feet of overburden located south of Forsyth.

Following a 400 ton test burn, work began, and in December 1923 the spur to Colstrip was complete. Foley Brothers of Minneapolis contracted to mine the coal and create the town. By 1925, the power line from Billings arrived and an electric dragline and shovel were in full swing. Coal was loaded directly into rail cars in the pit and taken to the main line. The use of electric locomotives in the pit created the first all electric mine in the United States. By 1927, Colstrip produced 730,000 tons, outproducing all areas except Roundup.

Since surface mining was barely out of its infancy, the Colstrip operation was a major phenomenon in the west. Production averaged 50 tons per man-shift and mining statistics were awry. The possibilities of low cost coal were enormous, but aside from rail consumption the market was nebulous. The 19445 [sic] production highs of slightly over 2.5 million tons per year adequately demonstrated the future of Montana's strippable coal.

Waiting for a market, the mine closed in 1957 as dieselization became universal. Happily, the equipment and productivity waited patiently for Montana Power to enter the steam-electric generation era.

Modern History

Although Colstrip demonstrated the real potential of Montana coal, the state production declined to a mediocre 300,000 tons in 1960--a level below the first big year of 1889 when Cascade County came on stream. This actually reflected the condition of coal mining throughout the U. S.

Everyone awaited new market developments for our most plentiful energy source.

The consumption of utility coal began modestly in 1958 when Montana-Dakota Utilities started their plant in Sidney. The coal was mined at Savage by their subsidiary, Knife River Coal Co. By 1965, a fairly maximum consumption of 300,000 tons per year was reached.

The demand for steam-electric coal finally arrived when Montana Power Co. acquired Colstrip and its equipment and in 1968 began production for their steam plant in Billings. Almost simultaneously, Peabody Coal began operations at their Big Sky Mine just south of Colstrip in 1969. These operations preceded the energy crisis and are tribute to rail accessibility, Northern Pacific marketing, and foresight by the parent companies. Decker Coal emerged in 1970 after running a 19 mile spur from Sheridan, Wyoming.

Although the energy crisis had not made itself fully apparent, Montana's low sulfur coal was in demand due to Federal regulation of emissions. Westmoreland Resources' Absaloka Mine came on stream in 1974 and these initial mines all reaped the benefit of energy crisis contracts. By 1976, both Decker and Colstrip were part of the top ten U.S. mines.

Contemporary environmental concerns and mining growth met head on in Montana. The 1973 Legislature passed reclamation laws that concerned surface mining--particularly the enforcement aspects. Before this had significant impact, however, similar Federal legislation passed to restore Montana's competitive position. The ultimate blow to marketing came in 1975 when the Legislature adopted a 30% severance tax.

Whether this tax exists as a direct attack on mining or as a defensive mechanism to ameliorate mining impact is a moot question. Regardless of its intent, the ultimate impact was the immediate cessation of mine development. The existing mines passed on the tax through their active contracts and new contracts for Montana slid to Wyoming.

The only mine opened since 1974 is the Spring Creek Mine of Nerco located near Decker. This mine opened in 1980 on the leading edge of the coal market collapse. Capable of 10 million+ tons per year, they produced slightly more than 2 million tons in 1983.

Although the world coal market is poor, recovery seems prevalent with growth in 1984 averaging 9% over 1983. This isn't new growth, just reproduction over the previous 3 year's [sic] decline. Montana's surface minable coal reserves are marketable because of their low sulfur content and relatively low stripping ratios. Proposed Federal legislation on utility coal exhaust scrubbing may remove a portion of the low sulfur desirability. The low stripping ratio tends to be offset by the high tax. Within a few years it is conceivable that Montana will drop from its 10th place in state production (3.7% nationally). We have already dropped 4.5 million tons from the 33.3 million tons of 1981 to 28.8 million in 1983. Wyoming, the largest state producer and our adjacent competitor produced a new high of 112 million tons in 1983.

Conclusion

Montana's coal mining history over the past 100 years has covered a large portion of our minable resources. The work before 1960 satisfied the smelters, mines, railroads and home heating requirements. The coal deposits that were economic early were developed by rail accessibility as is coal now.

The early competitive coals were remarkable for their coking qualities but suffered from partings requiring hand sorting within and without the mine. The strongest underground reserves are located south of Roundup in the Bull Mountain Field. They will probably lie in wait of higher demand and prices. They certainly represent an excellent source of domestic coal for home heating if gas prices usurp the convenience of piped energy.

The strippable resources of eastern Montana are tremendous and could supply a significant portion of U.S. demand for many years. Further development will be constrained by taxes, Federal regulations and rail access.

This last point will slow development even if the first two did not exist.

It is difficult to locate many of the old mines now and when the Abandoned Mine Reclamation Fund is applied everywhere, only stories will remain. It is doubtful that any of the early coal mining areas will ever see sizeable production again.

LEGISLATIVE HISTORY OF THE MONTANA COAL SEVERANCE
TAX AND ITS PREDECESSOR TAX

Chapter No. 155, Laws of 1921 imposed a coal mines license tax of 5 cents per ton on coal mined in Montana.

Chapter No. 200, Laws of 1939 exempted the first 50,000 tons of a mine's annual production from the coal mines license tax.

Chapter No. 244, Laws of 1967 limited the application of the coal mines license tax to strip mines only.

Chapter No. 245, Laws of 1967 allowed the licensee a credit against the coal mines license tax of one-half of the reasonable value of reclamation work performed on strip-mined lands.

Chapter No. 355, Laws of 1971 limited the credit for on-site reclamation work to a maximum of 1 cent per ton on the coal mined; reduced the amount of coal exempt from taxation annually to 5,000 tons; and revised the tax rate according to Btu content per pound of coal:

- 6,000 Btu or less, 4 cents per ton;
- 6,001 to 7,500 Btu, 6 cents per ton;
- 7,501 to 9,000 Btu, 8 cents per ton; and
- 9,001 Btu and above, 10 cents per ton.

Chapter No. 432, Laws of 1973 removed the tax credit for on-site reclamation work and increased the tax rate based on Btu content per pound of coal:

- 7,000 Btu or less, 12 cents per ton;
- 7,001 to 8,000 Btu, 22 cents per ton;

- 8,001 to 9,000 Btu, 34 cents per ton; and
 - 9,001 Btu and above, 40 cents per ton; and
- allocated 1 cent per ton of the strip mine coal license tax to the general fund of the county in which the coal was mined and deposited the balance of the revenue in the state general fund.

Chapter No. 250, Laws of 1974 increased to 3 cents per ton the portion of the coal mines license tax allocated to the general fund of the county where the coal was mined.

Chapter No. 499, Laws of 1975 approved and submitted to the people for ratification a constitutional amendment requiring the deposit into a permanent trust fund of a portion of the proceeds of the coal severance tax with the principal of the trust to remain inviolate unless three-fourths of the members of the Legislature vote to appropriate money from the principal. The earnings of the trust are available, however, for appropriation by the Legislature. At least one-fourth of the coal severance tax proceeds were to be deposited into the trust until December 31, 1979, after which at least one-half must be deposited. Approved by the voters of Montana at the November 1976 election.

Chapter No. 501, Laws of 1975 allocated from the coal mines license tax or coal severance tax 2.5% of total collections until December 31, 1979, and thereafter 4% of total collections to the alternative energy research development and demonstration account.

Chapter No. 502, Laws of 1975 allocated portions of the coal mines license tax or coal severance tax:

- 27.5% until July 1, 1979, and thereafter 35% to the local impact and education trust fund account;
- until July 1, 1979, 10% to the coal area highway improvement account;
- 10% to equalization aid for public schools;
- until December 31, 1979, 1% to the county land planning fund;
- 2.5% to the renewable resource development bond account; and
- until July 1, 1979, 2.5% for acquisition of sites and areas for state parks, state recreational areas, state monuments, or state historical sites, and after June 30, 1979, 5% to the trust and legacy fund, income from which may be appropriated for acquisitions of sites and areas described above; and

authorized the Coal Board to award grants not to exceed seven-elevenths of the revenue paid into the local impact and education trust fund account and after June 30, 1979, not to exceed three-sevenths of that revenue.

Chapter No. 525, Laws of 1975 removed coal from application of the law on net proceeds of mines and made coal subject to gross proceeds under the property tax system; imposed a graduated severance tax on coal, applicable to any producer who produces 5,000 tons or more during a quarter-year:

- surface mined, ranging from 12 cents per ton or 20% of value, whichever is greater, for coal of less than 7,000 Btu per pound to 40 cents per ton or 30% of value, whichever is greater, for coal of more than 9,000 Btu per pound;
- underground mined, ranging from 5 cents per

ton or 3% of value, whichever is greater, for coal of less than 7,000 Btu per pound to 12 cents per ton or 4% of value, whichever is greater, for coal of more than 9,000 Btu per pound;

allocated 3 cents per ton or 4% of the severance tax on coal mined in a county, whichever is higher, to that county until January 1, 1980, after which the allocation became 3 cents per ton or 3.5%, whichever is higher, of the severance tax; and deposited in the general funds the remaining proceeds not allocated by another statute; and

allowed the Department of Revenue, in cases when the coal miner is using the produced coal in an energy conversion or other manufacturing process or a person sells coal under a contract which is not an arm's-length agreement or when a person neglects or refuses to file a statement and tax return, to impute a value to the coal that approximates the market value f.o.b. mine.

Chapter No. 164, Laws of 1977 revised the exemption from the coal severance tax to the first 20,000 tons of production each year.

Chapter No. 540, Laws of 1977 revised the distribution of coal severance tax proceeds to conform with the constitutional amendment creating the permanent trust by applying statutory allocations to the remainder of the proceeds after the trust fund deposit and made these changes in allocations:

- until January 1, 1980, to the county, 2% of the severance tax on the coal mined in that county;
- increased the allocation to the alternative

- energy research development and demonstration account to 5% after December 31, 1979;
- for fiscal years 1978 and 1979, 13% to the coal area highway improvement account;
- approved use for operation or maintenance as well as acquisition of sites and areas of one-half of the 2.5% allocation under Chapter No. 502, Laws of 1975, and the deposit of the remaining one-half in a trust for parks acquisition or management and allowing income from the trust to be appropriated for acquisition, operation, and maintenance;
- changed to seven-fifteenths the portion of the allocation to the local impact and education trust that the Coal Board could award in grants after June 30, 1979; and
- required that each county receive \$3,000 per year from the allocation for county land planning plus a share of the balance of the allocation that was to be apportioned among the counties 40% according to the ratio of each county's land area and 60% according to the ratio of each county's population.

Chapter No. 549, Laws of 1977 appropriated from the earmarked revenue account established for the acquisition of parks sites and areas \$50,000 for the preservation and protection of works of art in the Capitol and approved that purpose among the uses for the income from the trust fund created in Chapter No. 540, Laws of 1977.

Chapter No. 653, Laws of 1979 amended 15-35-108, MCA, to provide that in addition to parks acquisition and maintenance the income from the trust fund, established in Chapter No. 540, Laws of 1977, be

appropriated one-third for protection of works of art in the Capitol and other cultural and aesthetic projects and two-thirds for the acquisition, operation, and maintenance of sites and areas described in 23-1-102, MCA (state parks, recreational areas, monuments, or historical sites).

Chapter No. 694, Laws of 1979 allocated 1% of the coal severance tax proceeds remaining after the permanent trust deposit to the State Library Commission to provide basic library service for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking.

Chapter No. 479, Laws of 1981 reduced the amount allocated to alternative energy research from 5% to 4.5% and allocated 0.5% to conservation district operations.

Chapter No. 505, Laws of 1981 allocated 1.25% of the coal severance tax proceeds to water development; established within the constitutional permanent trust three subfunds:

- the coal severance tax bond subfund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;
- the coal severance tax permanent subfund; and
- the coal severance tax income subfund.

On each December 31 and June 30, the state treasurer shall transfer to the coal severance tax permanent subfund all money in the coal severance tax bond subfund except the amount necessary to

meet all principal and interest payments on bonds payable from the coal severance tax bond subfund. Income and earnings from all subfunds must be transferred to and retained in the coal severance tax income subfund.

Initiative No. 95 (approved by the people November 2, 1982) required that one-fourth of all future deposits in the permanent coal tax trust fund be invested in the Montana economy, not through direct loans but through emphasis on investments in new or expanding enterprises; and created an economic development fund, using a portion of the interest from the coal tax trust fund.

Chapter No. 149, Laws of 1983 qualified the requirement to retain in the coal severance tax income fund income and earnings "until appropriated by the legislature".

Chapter No. 298, Laws of 1983 changed the designation of the "subfunds" created in Chapter No. 505, Laws of 1981, to "funds".

Chapter No. 303, Laws of 1983 increased the exemption from the coal severance tax to 50,000 tons a year but required a person who produced more than 50,000 tons a year to pay severance tax on all production over 20,000 tons.

Chapter No. 326, Laws of 1983 amended 15-35-107, MCA, to require the Department of Revenue to impute a value on coal whenever the operator of a mine requests the department to do so and whenever the operator of a coal mine refines the coal by drying, cleaning, or other processing designed to

improve the quality of the coal, and in the latter instance "market value f.o.b. mine" means the value of the coal subsequent to primary and secondary crushing but prior to drying, cleaning, or other processing. The imputed value is also to be used for reporting the value of coal for purposes of gross proceeds taxation.

Chapter No. 541, Laws of 1983 created the highway reconstruction trust account and allocated to that account for fiscal year 1987, 6% and for fiscal years 1988 through 1993, 12% of the total proceeds of the coal severance tax.

Chapter No. 677, Laws of 1983 created the Montana in-state investment fund consisting of one-fourth of the revenue deposited in the permanent coal tax trust fund and the principal payments on all investments made from that fund.

Chapter No. 246, Laws of 1985 amended 15-35-108, MCA, to provide that for fiscal years 1986 through 1989 two-thirds of the income from the parks acquisition trust may be used for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102, MCA, and after June 30, 1989, for the acquisition of sites and areas described in 23-1-102 (state parks, recreational areas, monuments, or historical sites) and the development, operation, and maintenance of sites acquired under 15-35-108(3)(f)(ii), MCA.

Chapter No. 338, Laws of 1985 required that 15% of the earnings of Montana in-state investment fund be deposited in the permanent coal tax trust fund and

become part of the in-state investment fund.

Chapter No. 512, Laws of 1985 changed from "[o]n each December 31 and June 30" to "from time to time" the requirement stating when the state treasurer must transfer money from the coal severance tax bond fund to the coal severance tax permanent fund.

Chapter No. 636, Laws of 1985, the "New Coal Production Incentive Act of 1985," allowed a tax credit of 33 1/3% of the severance tax on incremental coal produced and purchased under an existing agreement that was extended between January 1, 1985, and June 30, 1987, for at least 5 years or under a new agreement that was executed between January 1, 1985, and June 30, 1987.

Chapter No. 715, Laws of 1985 for fiscal years 1986 and 1987 only reduced the allocation to the alternative energy research development and demonstration account from 4.5% to 2.5% and the allocation to the local impact and education trust fund account from 37.5% to 26% of the coal severance tax proceeds; allocated an additional 4% to the highway reconstruction trust account for fiscal years 1986 and 1987 only (these allocations are applied against the severance tax proceeds remaining after the permanent trust fund deposit and the previous allocation to the highway reconstruction trust account); and, after June 30, 1985, reduced to 23.08% the portion of the allocation to the local impact and education trust fund that the Coal Board could use to award grants and loans.

Chapter No. 3, Laws of Special Session, June 1986

reallocated to the general fund for fiscal years 1987 through 1989 the 5% allocation to the parks acquisition trust and struck the provision that limited the use of two-thirds of the trust income after June 30, 1989, only for sites and areas acquired with funds allocated under 15-35-108(3)(f)(ii), MCA.

Chapter No. 5, Laws of Special Session, June 1986

transferred to the general fund from the Coal Board's allocation for grants and loans \$680,000 for fiscal year 1986 and \$1 million for fiscal year 1987.

Chapter No. 19, Laws of Special Session, June 1986

revised the distribution formula for coal severance tax proceeds by:

- increasing to 30% for fiscal year 1987 the allocation to state equalization aid to public schools,
- decreasing to 6% the allocation for fiscal year 1987 to the local impact and education trust fund, and
- setting the share of the local impact and education trust fund available to the Coal Board for grants and loans after June 30, 1987, to seven-fifteenths of the revenue paid in.

Chapter No. 608, Laws of 1987 reduced the coal

severance tax to a maximum of 25% in fiscal year 1990 and to a maximum of 20% after June 30, 1991, with the following further reductions contingent upon the production and sale of 32.2 million tons

of coal (which equals the average annual production for calendar years 1983 through 1986) during fiscal year 1988:

- maximum of 25% during fiscal 1989 and 1990;
- maximum of 20% during fiscal year 1991; and
- maximum of 15% after June 30, 1991.

(The act also reduced the tax rates in the New Coal Production Incentive Tax Credit Act to conform with these rates.)

Chapter No. 461, Laws of 1987 required deposit in the technology investment program debt service fund from the coal severance tax permanent trust fund such amounts, not to exceed \$38 million, as are necessary from time to time, after application of all other money in the technology investment program debt service fund, to pay principal of and premium, if any, and interest on obligations when due. After all obligations have been paid, any interest, principal, royalty, and other payments received by the Science and Technology Development Board with respect to technology investments made from money in the technology development account must be deposited in the coal severance tax permanent trust fund.

Chapter No. 662, Laws of 1987 revised the allocations of the coal severance tax proceeds remaining after the deposit in the permanent trust and the allocation to the highway reconstruction trust account by making certain selective changes and authorizing one new use in the Growth through Agriculture Act:

- decreased from 6% to 4% until June 30, 1989, to the local impact account and thereafter

20% to the local impact and education trust fund account and 17.5% to the local impact account; and

- increased from 30% to 44.2% until June 30, 1989, and thereafter 10% to the state equalization aid to public schools account;
- allocated 2% to the Montana Growth through Agriculture Act;
- struck the 5% allocation to the general fund made in Chapter No. 3, Laws of Special Session, June 1986;
- required that 2% of the earnings of the permanent trust be redeposited in the trust each year;
- established a local impact account separate from the education trust fund account, and authorized the Coal Board to make grants and loans from the local impact account;
- directed that 10% of the income from the education trust fund account go to the Superintendent of Public Instruction for postsecondary vocational-technical centers and adult basic education programs, and of the remaining 90% of the income 75% goes into the state equalization aid to public schools account and 25% goes to the Board of Regents of Higher Education for use of the institutions of higher education subject to the appropriations of the Legislature; and
- for fiscal years 1988 and 1989, reduced from 15% to 2% the portion of the earnings of the coal severance tax trust fund that must be deposited in the trust.

LEGISLATIVE HISTORY OF THE COAL GROSS PROCEEDS TAX

Chapter No. 525, Laws of 1975 required each person mining coal to report by March 31 of each year to the Department of Revenue the gross yield from each mine during the preceding calendar year and the value of the production. The department is required by July 1 of each year to notify the county assessor of each county in which coal mines are situated of the gross proceeds of those mines for the purpose of taxation. Section 84-301, R.C.M. 1947, was amended to except coal mines from net proceeds taxation under Class One of the property classification system, to include the gross proceeds of underground coal mines in Class Three, to be taxed at 33 1/3% of full and true value, and the gross proceeds of strip mined coal in Class Nine, taxed at 45% of full and true value.

Chapter No. 693, Laws of 1979 revised the property tax classification system to designate in Class Two gross proceeds of underground coal mines and gross proceeds of coal strip mines while maintaining the taxable value at 33 1/3% and 45%, respectively.

Chapter No. 326, Laws of 1983 provided that whenever the value of coal is imputed by the Department of Revenue under the coal severance tax law that imputed value is also used for the purposes of reporting the value of the gross yield of coal for taxation as gross proceeds.

LEGISLATIVE HISTORY OF THE RESOURCE INDEMNITY TRUST TAX

Chapter No. 497, Laws of 1973 was the Montana Resource Indemnity Trust Act and was intended to provide security against loss or damage to our environment from the extraction of nonrenewable natural resources. Any person mining or producing minerals was required to pay an annual tax of \$25 plus 0.5% of the gross value of the product in excess of \$5,000. The tax payment is due on March 31 on the products of the preceding calendar year and is deposited in the resource indemnity trust account. After the principal of the trust and its accrued earnings equal \$10 million, the net earnings may be appropriated. If the trust reaches \$100 million, all net earnings and tax receipts shall be appropriated and expended provided that the balance never falls below \$100 million thereafter. Any funds made available must be used to improve the total environment and rectify damage thereto.

Chapter No. 505, Laws of 1981 required that, beginning in fiscal year 1982 when the balance in the resource indemnity trust account exceeds \$10 million, 30% of the interest income of the account must be earmarked for water development.

Chapter No. 226, Laws of 1983 revised the reporting procedures to require quarterly reports filed not more than 60 days after the end of the calendar quarter and changed the deadline for payment of the annual tax to March 1 for production during the preceding calendar year.

Chapter No. 241, Laws of 1983 required that, beginning

in fiscal year 1986, 6% of the interest earned by the resource indemnity trust account be allocated to the Department of Health and Environmental Sciences to be used to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Funds remaining unexpended at the end of each fiscal year will revert to the resource indemnity trust interest account.

Chapter No. 716, Laws of 1985 required that the allocation authorized in Chapter No. 241 above be appropriated for each full biennium as necessary to obtain matching federal funds.

House Bill No. 922, Laws of 1985 appropriated to the Department of Natural Resources and Conservation (DNRC) the balance in the resource indemnity trust interest account to be awarded in a program of legislatively prioritized grants. The environmental contingency account was established, and, at the beginning of each fiscal year, 5% of the funds appropriated to DNRC from the resource indemnity trust interest account was to be deposited into the environmental contingency account. Funds from the environmental contingency account, which was capped at \$1 million, were to be appropriated to meet unanticipated needs in certain public services, and interest on the funds in the account was to be deposited in the resource indemnity trust interest account.

Chapter No. 408, Laws of 1987 required that, beginning in fiscal 1988, 12% of the interest income of the resource indemnity trust fund must be allocated to

the hazardous waste/CERCLA account.

Chapter No. 418, Laws of 1987 amended the legislative policy section of the Montana Resource Indemnity Trust Act "to indemnify its citizens for the loss of long-term value resulting from the depletion of its mineral resource base and for environmental damage caused by mineral development. . . . by establishing a permanent resource indemnity trust from the proceeds of a tax levied on mineral extraction and by allocating spendable trust revenues:

- (1) to protect and restore the environment from damages resulting from mineral development; and
- (2) to support a variety of development programs that benefit the economy of the state and the lives of Montana citizens."

Also established was the Reclamation and Development Grant Program to fund projects that "indemnify the people of the state for the effects of mineral development on public resources and that meet other crucial needs serving the public interest and the total environment. . ." and established eligibility requirements, evaluation criteria, and conditions of grants. At the beginning of each biennium, an amount of not more than \$175,000 is allocated from the interest income of the resource indemnity trust fund to the environmental contingency account except that no allocation is made if the balance in that account exceeds \$750,000 at the beginning of any biennium and, if the balance is less than \$750,000, an amount, up to \$175,000, sufficient to restore that balance is allocated.

Chapter No. 555, Laws of 1987 required that, beginning in fiscal year 1990, 4% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund.

FEDERAL COAL TAXATION

Just as every other state in the Union, Montana is subject to all taxes on coal production imposed by the U.S. Congress.

In addition to the coal severance tax and the resource indemnity trust tax imposed at the state level and the coal gross proceeds tax imposed at the county level, these federal taxes are also paid on Montana surface-mined coal:

- Abandoned Mine Reclamation Tax consisting of 10% of the f.o.b. mine price up to a maximum of 10 cents per ton for lignite or 35 cents per ton for all other types of coal
- Black Lung Tax of 4.4% of the f.o.b. mine price or 55 cents per ton, whichever is less, is paid to a fund for black lung disease victims despite the fact that this disease is primarily suffered by underground miners.

LOCAL IMPACT ASSISTANCE FROM COAL SEVERANCE TAX

Boom Multiplies Need for Public Facilities

The sudden growth of the surface mining coal industry in southeastern Montana in the early 1970s created instant demands for public facilities and services. The need for roads, schools, hospitals, law enforcement, recreation, and other public facilities and services demanded rapid response and imposed financial burdens upon the small ranching and farming communities and sparsely settled counties that were impossible to satisfy from traditional tax sources.

Impact Assistance Authorized

To remedy this situation, the 1975 Legislature created the seven-member Coal Board and authorized it to award grants annually of up to seven-elevenths of the portion of the severance tax proceeds paid into the local impact and education trust fund to assist local governmental units in meeting the local impact of coal development by enabling them to adequately provide governmental services and facilities which are needed as a direct consequence of coal development. Such grants shall be awarded on the basis of: (a) need; (b) degree of severity of impact from the coal development; (c) availability of funds; and (d) degree of local effort in meeting these needs. (90-6-205 and 90-6-206, MCA)

Prioritization Based on Impact Population Growth

Chapter 502, Laws of 1975, also made a provision for the designation of "counties, towns, school districts and other governmental units which have had or expect

to have an increase in estimated population of at least ten percent (10%) during any three (3) years since 1972 as a result of the impact of coal development. The coal board shall...award at least fifty percent (50%) of all grants...to these designated governmental units." Subsequent amendment provided five overlapping and consecutive 3-year periods encompassing 7 calendar years to determine population growth to qualify an impact area. The amendment included as an eligible impact area any local governmental unit located within 50 miles on an all-weather road of a new coal mine producing 1 million tons a year or of a steam-generating or other coal-burning facility that will consume 1 million tons of Montana-mined coal each year.

In Chapter No. 540, Laws of 1977, after the permanent coal tax trust fund was created by the constitutional amend-ment approved by the people in 1976, the share of the revenue paid into the local impact and education trust fund available to the Coal Board for local impact grants was reduced to seven-fifteenths after June 30, 1979. That apportionment was reduced to 23.08% effective July 1, 1985, by Chapter 715, Laws of 1985.

Chapter No. 5, Special Laws of June 1986, made all revenue paid into the local impact and education trust fund available for grants and loans but effectively reduced the authorization by appropriating to the general fund \$1,680,000 of the money previously allocated for local impact assistance during the 1986-87 biennium.

Local Impact and Education Trust Fund Accounts Separated

From its inception in 1975, the law allocating portions

of the coal severance tax revenue recognized the local impact and education trust fund as a single entity from which the Coal Board received a share to be used to provide grants or loans for mitigation of local impacts. Any portion of that allocation unused at the end of a fiscal year reverted to the principal of the education trust fund.

The 1987 Legislature, however, in Chapter No. 662, Laws of 1987, for the first time segregated the two purposes by separating the local impact account from the education trust fund account. An allocation was provided for local impact during the 1988-89 biennium but not for the education trust fund. Under the terms of that act, the allocation to the education trust fund will be reinstated after July 1, 1989.

Statutory Allocations for Local Impact Aid

Table 1

COAL SEVERANCE TAX ALLOCATIONS TO COAL BOARD FOR
LOCAL IMPACT AID ACCORDING TO THE MCA EFFECTIVE
FOR PERIODS BEGINNING

July 1, 1975	17.50%	
July 1, 1977	12.65%	
July 1, 1979	13.13%	
Jan. 1, 1980	8.75%	
July 1, 1985	3.00%	
July 1, 1986	2.64%	(less \$1,600,000 reallocated to general fund)
July 1, 1987	1.52%	
July 1, 1989	6.65%	

Coal Board Grants

According to a report dated April 15, 1988, prepared by Murdo Campbell, executive officer of the Coal Board,

since January 1976, the Coal Board had awarded 199 grants worth \$60.7 million to local and state governmental units and Indian tribes while denying requests for 94 grants. Table 2 lists the grants awarded.

Table 2

COAL BOARD GRANTS BY RECIPIENT TYPES

Recipient Govt. Types	No. of Grants	% of Grants	Amount Awarded (Mils)	% of Total
Cities	57	29	\$11.8	19
Schools	38	19	30.9	52
Counties	75	37	12.9	21
Indian Tribes	4	2	0.6	1
Special Districts	17	9	3.8	6
State Agencies	8	4	0.7	1

During that same period, according to Campbell's report, \$7,414,993 of statutory allocations for local impact assistance were unexpended at the ends of the fiscal years and thus became part of the corpus of the education trust fund.

Table 3

REVERSIONS OF COAL BOARD ALLOCATIONS
TO EDUCATION TRUST BY FISCAL YEARS

1987	\$	517
1986		30,944
1985		9,452
1984		154,458
1983		41,927
1982		2,737,630
1981		317,749
1980		2,170,911
1979		383,422
1978		---0---
1977		---0---
1976		1,567,883
TOTAL	\$	7,414,993

Table 4

COAL BOARD GRANTS BY FISCAL YEAR	
1988	\$ 1,011,872
1987	881,100
1986	1,667,704
1985	7,105,022
1984	7,025,690
1983	6,839,908
1982	4,618,317
1981	5,743,700
1980	7,747,224
1979	3,434,247
1978	2,387,125
1977	10,039,966
1976	2,246,651
TOTAL	\$60,748,52

COUNTY LAND PLANNING PROGRAM

When the law creating the coal severance tax in its present form was enacted in 1975, the Legislature established a County Land Planning Fund Program to which was allocated a small fraction of the proceeds of the severance tax.

The purpose of the program was to help Montana counties and communities plan, develop, and conserve their land base, thereby preserving and enhancing community resources through supporting the work of local planning boards and other types of community planning and development activities.

Under the present law, the county land planning fund receives 0.38%--slightly more than one-third of 1 percent--of the total severance tax revenue. In fiscal 1987, the total allocation to county land planning was about \$336,000. Each county receives a minimum allocation of \$3,000 a year, and the remainder is distributed according to a formula based 40% on geographic area and 60% on population. A county can pass the money through to city planning boards and to city-county planning boards by the use of interlocal contracts. A 1985 amendment clarified that land planning purposes include but are not limited to comprehensive planning, economic development planning, and capital improvements planning.

The Department of Commerce distributes the funds quarterly, assists local governments with identifying the proper uses for the funds, and helps with accounting and cash management. Each local governing body and planning agency which receives funds must account annually for its expenditures, and any surplus

must be returned to the education trust fund at the end of each odd-numbered fiscal year.

Since fiscal 1976, the County Land Planning Fund Program has provided Montana's counties with more than \$4.5 million for community planning, and counties have consistently put about 94% of that money to use each year.

The following is the tabular history of the county land planning fund between fiscal years 1976 and 1987, inclusive:

TABLE 5

COUNTY LAND PLANNING FUND PROGRAM: FUNDS DISTRIBUTED

12/01/87

<u>FY</u>	<u>DISTRIBUTED</u>	<u>USED</u>	<u>% USED</u>	<u>SURPLUS</u>	<u>%SURPLUS</u>
76	\$ 220,318.10	\$ 202,396.74	91.87	\$ 17,921.36	8.13
77	359,060.17	340,159.88	94.74	18,900.29	5.26
78	281,039.24	270,121.28	96.12	10,917.96	3.88
79	320,167.91	300,190.86	93.76	19,977.05	6.24
80	521,007.03	490,078.05	94.06	30,928.98	3.83
81	352,075.11	332,869.83	94.55	19,205.28	5.45
82	430,934.23	402,334.87	93.36	28,599.36	6.64
83	400,224.90	380,473.65	95.06	19,751.25	4.94
84	414,117.14	394,024.57	95.15	20,092.57	4.85
85	458,744.29	442,678.02	96.50	16,066.27	3.50
86	420,945.26	388,190.96	92.22	32,754.30	7.78
87	<u>336,945.82</u>	<u>321,299.51</u>	95.36	<u>15,646.31</u>	4.64
TOTALS	\$4,515,579.20	\$4,264,818.22	94.45	\$250,760.98	5.55

Source: George Warn, Management Services Division, Department of Commerce

COAL GROSS PROCEEDS TAXED AT 45% OF VALUE

The 1975 act that created the coal severance tax in its present form also segregated coal from other minerals in the property classification system and provided a mechanism to channel a portion of the value of coal production to the local governments where the mines are located.

In its legislative findings and purposes section, Chapter No. 525, Laws of 1975, observed that coal differed from both petroleum and precious metals and deserved different treatment for taxation purposes.

Coal had previously been subject to taxation under the net proceeds law at 100% of value in the same manner as metals. The 1975 law provided that gross proceeds of coal mines be taxed at 45% of value. After the Department of Revenue informs the county assessor of the total value of coal proceeds attributable to that county in the previous calendar year, the county's property levy for the year is applied against that value just as it is levied against other property. Thus, when the county assessor receives notice of the gross proceeds value of coal produced in the county during calendar year 1987 and the mill levies for 1988 are established for the taxing jurisdictions concerned, each coal producer will be billed for the amount of tax determined by applying the mill levy against 45% of the coal gross proceeds.

Coal gross proceeds taxes are a major source of local government revenue in the three counties where almost all of Montana's coal production originates.

The following is an abstract of the contributions of the gross proceeds as compiled by the coal industry's principal advocacy organization.

TABLE 6

GROSS PROCEEDS TAXES ON COAL
In Montana's Three Major Producing Counties
1969 through 1987, Inclusive

Compiled by the Montana Coal Council
From Tax Collection Records of Treasurers
of Big Horn, Rosebud, and Richland Counties

Big Horn County

Decker Mines (1972-87)	\$ 56,148,867
Spring Creek Mine (1981-87)	8,303,355
Westmoreland Resources (1973-87)	<u>15,553,868</u>
TOTAL Big Horn County (1972-87)	\$ 80,006,090

Richland County

Knife River Mine (1975-87)	\$ 2,020,333
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Rosebud County

Peabody Coal Company (1969-87)	\$ 10,014,993
Western Energy Company (1969-87)	<u>36,984,417</u>
TOTAL Rosebud County (1969-87)	\$ 46,999,410

TOTAL Three Counties (1969-87)	\$129,025,833
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RESOURCE INDEMNITY TRUST'S PURPOSE TO PRESERVE VALUES

The 1973 Legislature perceived a need to accumulate assets to compensate future generations for resources removed from the state's reserve of natural treasures. To fulfill this need, the Legislature passed the Montana Resource Indemnity Trust Act (Chapter No. 497, Laws of 1973) which following its amendment by Chapter No. 418, Laws of 1987, states:

It is the policy of this state to indemnify its citizens for the loss of long-term value resulting from the depletion of its mineral resource base and for environmental damage caused by mineral development. This policy of indemnification is achieved by establishing a permanent resource indemnity trust from the proceeds of a tax levied on mineral extraction and by allocating spendable trust revenues: (1) to protect and restore the environment from damages resulting from mineral development; and

(2) to support a variety of development programs that benefit the economy of the state and the lives of Montana citizens.

That 1973 act also created the resource indemnity account into which was to be deposited the money generated by a tax on each producer of \$25 plus 0.5% of the gross value of product in excess of \$5,000 each year extracted from the ground. The tax must be paid by March 31 on the value of products mined during the preceding calendar year.

The act required all tax proceeds and all the net earnings of the account to be invested by the Board of Investments until the account reached \$10 million after which only the net earnings could be expended until the account reached \$100 million. At that level all tax proceeds and net earnings could be appropriated by the

Legislature as long as the balance never fell below \$100 million.

The Legislature stated in the 1973 Act that: "Any funds made available under this act shall be used and expended to improve the total environment and rectify damage thereto." In House Bill No. 922, the 1985 Legislature stipulated "that future appropriations from the resource indemnity trust interest account not be made to fund general operating expenses of state agencies."

Despite technical and housekeeping amendments in intervening sessions, the Resource Indemnity Trust (RIT) law remained substantially unchanged until Chapter No. 505, Laws of 1981, created the water development program and, when the balance in the resource indemnity trust exceeds \$10 million, allocated 30% of the interest earned on that account to the water development program.

The annual date on which the RIT tax payment is due was changed to March 1 by Chapter No. 226, Laws of 1983.

Chapter No. 241, Laws of 1983, allocated 6% of the interest income of the resource indemnity trust, beginning in fiscal 1986, to the Department of Health and Environmental Sciences to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980.

Beginning in fiscal 1988, the allocation to hazardous waste/CERCLA was increased to 12% of the RIT income by Chapter No. 408, Laws of 1987. Chapter No. 418, Laws of 1987, required that at the beginning of each

biennium not more than \$175,000 be allocated from the RIT interest income to the environmental contingency account, subject to conditions provided in 75-1-1101, MCA. Chapter No. 555, Laws of 1987, in coordination with Chapter No. 418, Laws of 1987, required that, beginning in fiscal year 1990, these allocations be made from the RIT interest income: 8% to renewable resource development; 46% to reclamation and development grants; and 4% to the environmental quality protection fund.

Table 7

Resource Indemnity Tax Collections on Coal

From Montana Department of Revenue	
Fiscal 1974	\$ 61,687
Fiscal 1975	239,391
Fiscal 1976	409,810
Fiscal 1977	496,340
Fiscal 1978	522,333
Fiscal 1979	225,681
Fiscal 1980	928,798
Fiscal 1981	825,496
Fiscal 1982	1,000,195
Fiscal 1983	1,897,861
Fiscal 1984	1,300,665
Fiscal 1985	(199,370)
Fiscal 1986	1,171,480
Fiscal 1987	1,090,324
Fiscal 1988	1,223,264

Table 8

Balance in Resource Indemnity Trust Fund

From Fiscal Year Reports, Montana Board of Investments

Fiscal 1974	\$ 1,098,143
Fiscal 1975	3,279,661
Fiscal 1976	5,542,021
Fiscal 1977	8,214,869
Fiscal 1978	10,637,903
Fiscal 1979	12,561,903
Fiscal 1980	16,193,572
Fiscal 1981	20,730,632
Fiscal 1982	27,956,374
Fiscal 1983	35,648,853
Fiscal 1984	42,275,727
Fiscal 1985	46,968,775
Fiscal 1986	53,059,673
Fiscal 1987	57,074,698

Table 9

Total Investment Income, Resource Indemnity Trust Fund

From Fiscal Year Reports, Montana Board of Investments

Fiscal 1974	\$ 3,485
Fiscal 1975	96,126
Fiscal 1976	321,782
Fiscal 1977	475,082
Fiscal 1978	696,050
Fiscal 1979	956,284
Fiscal 1980	1,243,397
Fiscal 1981	1,767,418
Fiscal 1982	2,544,162
Fiscal 1983	4,021,028
Fiscal 1984	4,509,923
Fiscal 1985	5,509,892
Fiscal 1986	6,548,573
Fiscal 1987	7,205,821

CROW LAWSUIT DECISION DIMINISHES STATE'S TAXING POWER

By declining to accept an appeal from a decision of a lower tribunal, the United States Supreme Court, in January, 1988, effectively wrote the concluding chapter in litigation initiated by the Crow Tribe that spanned 10 years and caused the impoundment of many millions of dollars of coal severance tax proceeds.

The financial ramifications of the Supreme Court's refusal to review Montana's argument will cause immediate and substantial flow of money away from the state or from the fund established to receive the severance tax payments during the pendency of the litigation. If the Crow Tribe prevails in its claim of entitlement to the money, that group of Montana residents will be enriched by more than \$100 million. But to assure themselves that windfall, the Crows must successfully resist the petitions of the utility companies who argue that the tax should be refunded to them to pass through to their ratepayers who were the ultimate bearers of that tax burden.

The lawsuit had its genesis in 1978 when the Crow Tribe sued to enforce its claim to severance tax on coal mined from the so-called Ceded Strip because the title to the minerals in that area reposed with the tribe. The Ceded Strip adjoins the northern boundary of the Crow Reservation from which it was detached by an act of Congress in the first decade of this century and subsequently opened to homesteading. But title to only the surface rights passed to the settlers; the mineral title was reserved to the tribe.

Westmoreland Resources, Inc., opened its Absaloka Mine on Ceded Strip acreage in the early 1970s, and

production from that mine became subject to Montana's 30% coal severance tax, which was enacted in 1975. Until 1983, the severance taxes were paid directly to the state, and the proceeds were distributed as prescribed by constitutional dedication and as allocated by statute.

The federal District Court originally ruled in favor of the state. That decision was overturned and the case was remanded by the Ninth Circuit Court of Appeals, which actions were sustained by the Supreme Court in 1982. Establishment of an escrow account in a Billings bank was ordered by the federal District Court in 1983. On retrial, the federal District Court in 1985 again ruled for the state, a decision which was reversed by the Ninth Circuit Court in June 1987. The Supreme Court, in January 1988, refused to hear the state's appeal. At that point, two main issues remaining to be resolved were the distribution of the money in the escrow account and settlement of the tribe's constructive trust claim for the coal severance tax payments made before 1983 and the gross proceeds tax payments since 1975. The common law provides an entity improperly deprived of funds to which it is entitled may have a constructive trust placed on those funds. Lacking a successful claim by creditors, the District Court could order distribution of the escrow to the tribe.¹

Because the Department of the Interior refused to approve an ordinance adopted by the Crow Tribe in the 1970s to tax coal produced from the Ceded Strip, there now is uncertainty as to whether either the state or the tribe can tax that production.²

Still subject to some disagreement is the question of how much of Westmoreland's pre-1983 taxes related to Crow land and how much to state school land. If this issue is litigated, the case may not be settled for several years.³

The best information available to the Coal Tax Oversight Subcommittee showed that the total tax escrowed for production during the 5 years ending September 30, 1987, was \$22,244,230. As of January 12, 1988, interest accrued on the escrow was \$5,198,127 for a total balance of \$27,442,357. During that period, the state collected \$8,992,326 in severance tax on coal mined from its school land.⁴

The total severance tax derived from Ceded Strip production before October 1, 1982, was \$53,931,009, of which \$15,525,566 originated from state land and \$38,405,442 from Crow land. With interest accruing at 12% a year, the latter sum has compounded to about \$77 million.⁵

Obviously, if the state were required to repay this amount, the only easily accessible source would be the corpus of the constitutional permanent trust, the balance of which now exceeds \$360 million. Appropriation from the trust is possible only by a three-fourths vote of the Legislature. An amendment of the constitution to allow, under other conditions, the expenditure for the purpose of paying the Crow claim, if it develops, could be referred to a vote of the people by a two-thirds vote of the Legislature.

Expenditure of a sum of that magnitude from the permanent trust would appreciably diminish the portion of earnings available to the general fund for

appropriation.. This has been a significant fiscal resource for the Legislature in recent sessions.

The Montana severance tax application to the Ceded Strip was overturned by the decision of the Ninth Circuit Court of Appeals which held that:

Montana's coal taxes are preempted by federal law and policies. They interfere with tribal economic development and autonomy. The state interests they promote may or may not be sufficiently legitimate to overcome these conflicts, but even if they are, the taxes are not narrowly tailored in pursuit of these interests.

In addition, the taxes are void for interfering with tribal self-government, a separate and independent barrier to state regulation of Indian affairs. The mineral estate of the ceded strip is legally part of the Crow reservation, and taxing Indian income derived from activities conducted on reservation property is prohibited without congressional consent. Here, Congress did not consent. Montana's interests in imposing the coal taxes do not overcome the tribe's economic and governmental interests in coal production.

Finally, because taxes on coal mined on the ceded strip are invalid, taxes on coal from the reservation proper are likewise invalid. The district court erred in holding this question non-justiciable. The taxes impair the tribe's ability to negotiate leases with Shell Oil and other coal companies. They also reduce tribal revenues by impairing the coal's marketability.⁶

On June 10, 1988, the road was apparently cleared for the Crow Tribe to claim the escrowed funds when the federal District Court in Billings denied a motion by several utilities that wanted to join in the lawsuit and challenge the tribe for rights to the money. The court ruled that the utilities were too late in trying

to enter the lawsuit and the issues they raised should be a separate lawsuit against Westmoreland. The utilities argued that the money in the escrow account is rightfully theirs because they paid it as taxes in a passthrough agreement with Westmoreland.⁷

Three weeks earlier, the court had released about \$556,000 from the escrow to the tribe. The money had been paid into the escrow since the Supreme Court's decision in January 1988.⁸

The huge sum of money involved, however, makes it unlikely that the utilities will concede without an appeal. Thus, a final settlement and distribution of the escrow funds may still be years in the future.

In combination with the three-stage halving of the severance tax enacted in House Bill No. 252 in 1987, this judicial decision substantially diminishes the importance of coal as a revenue source for the State of Montana. The long-term impact upon the coal industry and the economy of Montana is yet to be determined.

Notes

¹Statement to the Coal Tax Oversight Subcommittee, Feb. 5, 1988, by Clay R. Smith, Assistant Attorney General, State of Montana

²Ibid.

³Ibid.

⁴Report to the Coal Tax Oversight Subcommittee, Feb. 5, 1988, by Terry Johnson, Office of Budget and Program Planning

⁵Ibid.

⁶Crow Tribe of Indians v. State of Montana, 819 F.2d 895 (9th Cir. 1987)

⁷Judge says utilities have no claim to Crow tax refund, Great Falls Tribune, June 11, 1988

⁸Battin releases \$500,000 to Crows, Great Falls Tribune, May 28, 1988

THE EPITOME

COAL: RETROSPECTIVE AND PERSPECTIVE

Montana once was a province of the copper kingdom and the fruit of the "Richest Hill on Earth" enriched New York and Los Angeles while the Treasure State got the leavings. But copper has been dethroned, and coal now occupies the singular position as the most abundant and most valuable of Montana's vast and varied proven mineral resources.

A century after the two minerals became significant contributors to the Montana economy, the importance of copper has diminished apace with the reserves in the major exploitable deposits. Hundreds of miles to the east, the recoverable coal under one-third of the state has hardly been scratched, as it was virtually unwanted until two decades ago. If Montana's first hundred years was the century of copper, the second hundred promises to be the century of coal.

Recognizing such an eventuality and hoping to prevent a 20th century replay of the squandering of the copper treasure, Montana's lawmakers a decade and a half ago formulated a plan intended to assure continuing benefits to the people of the state by taxing the products of the coal mines to finance impact mitigation assistance, to help pay the current expenses of state and local government, and to accumulate a permanent trust to partially replicate the value of the depleted resource. A principal vehicle to achieve this objective was the modernized coal severance tax. In 1975, a half-century-old nominal levy was overhauled and upgraded to the highest tax of its kind in the nation, a major revenue device for Montana. But the industry did not submit to this precedent-setting tax

without objection. While pointing to industry growth in a neighbor state and a concurrent leveling out of growth and the probable eventual reduction in Montana coal production, the coal industry laid the blame for its problems on the 30% coal severance tax.

Ten years later Montana began to respond to the industry's pleadings with the Schwinden Administration's proposal in 1985 for a New Coal Production Incentive Tax Credit, which allowed a one-third credit on the tax for coal produced under new or extended contracts during a limited time period.

Subsequent action by the 1987 Legislature in Chapter No. 608, Laws of 1987, approved a phased reduction of the maximum tax rate to 25% and 20%, occurring in 1989 and 1990. The act further authorized an accelerated implementation of an even deeper tax cut conditioned upon production and sale of 32.2 million tons during fiscal year 1988 (the average annual output for calendar years 1983 through 1986) during fiscal year 1988, a threshold which the industry crossed with one-sixth of the fiscal year remaining, assuring reductions of the tax rate to 25%, 20%, and 15%, in 1988, 1990, and 1991, respectively.

The result was that as fiscal year 1989 opened on July 1, 1988, Montana's coal severance tax rate declined by one-sixth. Two years hence another cut of one-fifth will occur, and one year later the severance tax will be slashed by a final one-fourth.

The Legislature's acceptance of a 50% staged reduction of the severance tax rate was an effort to improve the state's competitive position in the nation's coal

markets and to assist in the revitalization of a flagging industry.

The spokesmen for the coal industry deny ever claiming that tax reductions would set Montana mines humming again with zooming sales to create an expanded base to offset the lessened levies. They argue, instead, that the lower tax rate is needed to preserve the current status by providing a necessary negotiating tool to bargain for renewals of long-term contracts that will begin to expire early in the next decade and to provide enhancement of the Montana mines' competitive positions in seeking out and attracting new business contingent with the future's expected burgeoning energy demands and diversified utilization of coal.

As Montana ended the thirteenth year of its prominence as the source of the nation's most heavily taxed coal, uncertainty clouded the state's financial future. Coupled with general economic problems, the impending sharp cuts in severance taxes promised to reduce measurably revenue which since 1976 has contributed more than \$860 million to support general government and a multitude of special programs while also building a permanent trust fund. In addition to its value as a reserve for future Montanans, that trust itself has become one of the state's most important revenue sources with 85% or more of its earnings flowing to the general fund to reduce demands on the taxpayers.

Coal's unlimited promise for Montana is brightened by technology such as magnetohydrodynamics and coal drying processes that augur hopefully for a resurgence of the importance of that mineral in Montana's economic prospects.

Montana's minerals tax policy strives for a balance between the state's revenue needs and the necessity to preserve some portion of the value of the resources extracted from the earth on the one hand and on the other hand a governmental climate that will encourage exploration, development, job creation, and general economic and social betterment for its people.

On the achievement of this goal depends much of our state's future welfare.

APPENDIX A

STATES' TRUST FUNDS ARE DISSIMILAR PEAS IN A POD

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STATES' TRUST FUNDS ARE DISSIMILAR PEAS IN A POD

Of the severance taxes levied in 32 states, only 9 are applicable to coal, and 10 claim to dedicate portions of that revenue to trust funds that are similar in name only.

Few are genuine "trust funds" in the sense that the corpus is held inviolate in perpetuity while allowing disbursal of its income to previously designated beneficiaries or for stipulated purposes with conditional eventual distribution of the whole at the expiration of a definite period or upon satisfaction of prescribed conditions. The states' trusts are as unlike in structure, purposes, restrictions, and size as the creative intellects of the legislators who established them.

These innate differences compound the difficulty of comparing the states' trust funds. In a Legislative Finance Paper published in 1982, the National Conference of State Legislatures designated eight states, including Montana, as holders of permanent trusts derived from mineral royalties or severance taxes. Because of many obvious inaccuracies in that document, each of the other seven states was contacted by telephone during preparation of this paper to verify the existence of the other trusts and to determine the similarities or dissimilarities between those trusts and Montana's permanent coal tax trust, which was created with passage of a constitutional amendment in 1976.

Montana's Permanent Coal Trust

During the first 3 years of its existence, the permanent trust received 25% of the proceeds of the coal severance tax. After January 1, 1980, the constitution requires that 50% of the severance tax proceeds go into the trust. Until July 1, 1983, all of the earnings of the trust went to the general fund for appropriation, but during the following 4 fiscal years, 15% of the earnings were added to the corpus of the trust. During fiscal years 1988 and 1989, 2% of the earnings are being dedicated to the trust, and after June 30, 1989, the portion of earnings dedicated will return to 15%. These earnings dedications are statutory and are subject to legislative change although once assigned to the trust the earnings take on its characteristics of inviolability.

Montana's Statutory Coal Trusts

Two other trust funds--statutory by origin and lacking the blessing of constitutional protection against legislative raids--have been nourished by shares of the proceeds of the Montana coal severance tax. These are the education trust and the parks acquisition and cultural and aesthetics projects trust. Allocations to these trusts fluctuated from biennium to biennium according to the Legislature's recognition of the priorities for the alternative uses of the one-half of the coal severance tax remaining after the deposit in the permanent trust. Neither of those two trusts are receiving any portion of the severance tax proceeds this biennium, and the education trust corpus was almost wiped out when the 1987 Legislature appropriated most of its holdings to fund the Foundation Program.

The parks and cultural trust escaped a raid by the 1987 budget balancers.

Status of Montana's Coal Trusts

After the addition of fiscal 1988 tax collections and trust fund earnings, the permanent trust balance is nearing \$370 million. The parks and cultural trust balance is about \$16,300,000, and the education trust balance stands at about \$10 million.

Under the current provisions of Montana law, beginning July 1, 1989, the education trust and the parks acquisition and cultural projects trust will receive 7.6% and 1.9%, respectively, of the coal severance tax proceeds. The effective rate of the coal severance tax will drop from 30% to 25% on July 1, 1988, under the terms of House Bill No. 252 passed by the 1987 Legislature, and reductions scheduled to become effective in 1990 and 1991 will further lower the collections and accordingly the deposits in the trusts unless coal production and sales increase sufficiently to offset the tax declines. There is no sign on the horizon that any such production increment can be expected. For that reason, it appears likely that about \$5 million will be added to the education trust in fiscal 1989 and about \$1 million will be added to the parks and cultural trust.

Other States' Permanent Trusts

Without attempting an exhaustive comparison of the trusts held by other states, telephone interviews were conducted to verify the existence of those trusts. These bare facts were elicited.

Only three other states--New Mexico, Wyoming, and North Dakota--maintain mineral royalties or severance tax-based trusts that resemble Montana's in permanence and inviolability.

Largest by far of the state severance tax trusts is that of New Mexico, now approaching \$1.3 billion. Named the severance tax permanent fund, it was constitutionally established and receives the balance of all "severance tax" proceeds after deduction of that portion which is used to retire debt. Since the amendment of the state constitution in 1982 to strike the provision allowing invasion of the trust by three-fourths vote of the Legislature, no expenditure from the trust is allowable. The trust's income is available for appropriation by the Legislature. Virtually all additions to the trust originate as severance tax on oil production.¹

In Wyoming, the permanent mineral trust fund balance was \$908,461,000 on June 30, 1987. Although coal contributed substantially to the trust, most of its value originated as oil severance tax. The permanent mineral trust fund is composed of several separately identifiable entities created with tax revenue from specific minerals. A significant event with respect to the trust funds and the severance tax rate occurred in 1986 when dedicated revenue from coal severance taxes reached \$160 million, the statutory trigger to reduce the tax from 10.5% to 8.5%, a reduction that anticipated Montana's severance tax cut from 30% to 25% effective on July 1, 1988.²

North Dakota law creates two funds--the resources trust fund and the coal development trust fund--to receive mineral tax and royalty income, but only the second of

these has the true trust fund characteristics. The resources trust fund is a holding device in which oil severance tax proceeds are deposited until the money is disbursed according to legislative appropriation. During this biennium, \$9.3 million was appropriated, the expenditure of which will deplete the fund. The state constitution requires that 15% of coal severance tax proceeds be deposited in the coal development trust fund, the value of which is to be maintained perpetually although money may be loaned to local communities to assist with mitigation of impacts of mineral development. Coal loans outstanding now total \$8.4 million, and oil loans total \$3,375,000.³

States' Nonpermanent Trust Funds

Four other states that maintain so-called trust funds but which lack the distinguishing feature of perpetual protection of the corpus are Louisiana, Minnesota, Colorado, and Oregon. These might be more accurately described as special revenue funds whose assets are subject to appropriation and expenditure and whose survival depends upon the continued inflow of tax revenue.

Louisiana established the Louisiana investment fund for enhancement (LIFE) in fiscal year 1981-82 with the expectation that it would be fed by one-half of the windfall revenues anticipated from oil and gas exploration. The collapse of that industry almost immediately thereafter stymied that hope, and LIFE's resources are exhausted. After settlement with the federal government a decade ago of the dispute over royalties from offshore oil production, Louisiana created the education trust fund. By 1986, Louisiana had received \$645 million in oil royalties from the

three- to six-mile zone of which about \$545 million was deposited in the education trust fund to be spent on current nonbudgetary items for elementary and secondary schools.⁴

In Minnesota, the taconite environmental protection fund and the northeast Minnesota economic protection trust fund were created by the Legislature in 1977 as depletable or expendable entities derived from mineral production taxes. Appropriated to the taconite environmental protection fund was \$2.9 million for 1987 and \$3.9 million for 1988, and these amounts have been or will be expended. The objective of the northeast Minnesota economic protection trust fund is the rehabilitation of that state's Iron Range as its mineral reserves approach exhaustion. Out of the \$1.90 tax collected on each ton of taconite produced, the fund receives 1.5 cents. Although established with the intention that only the earnings of the fund should be expended, the law left a gap big enough to sail an ore boat through when it granted permission for withdrawals from the corpus under certain circumstances. The result has been slow growth and even reduction from 1986 when the balance of the corpus was \$31.5 million until 1988 when the balance was estimated at about \$31.2 million. The law provides a termination date of January 1, 2002, when the full trust principal will become available to the beneficiaries.⁵

When Colorado's trust fund was established, the anticipation was that half of the severance tax proceeds would flow into that fund and the other half would go directly to local governments. But in reacting to the financial pressures that are squeezing all natural resource states, the Legislature for this biennium diverted the severance tax flow from the trust

fund to the general fund. Balance in the trust fund this year was reported to be about \$19.1 million which was intended to fund loans to local governments, a purpose that was never fulfilled.⁶

In Oregon, where oil has never been found and natural gas production is minimal, the 6% severance tax on gas generates between \$40,000 and \$60,000 per quarter, which is deposited in the common school fund. The earnings of that fund are distributed to the school districts. The impact of mineral taxes is insignificant in Oregon, where severance taxes on the timber harvest contribute much more revenue.⁷

Permanent Trust Is Valuable Financial Device

Considered in relationship to the mechanisms employed by other states to preserve or expend mineral revenues and the ephemeral nature of unprotected income, Montana's permanent coal severance tax trust promises significant future financial benefits despite recent legislative action to reduce the tax rate. As the coal severance tax rate falls to no more than half the level set in 1975, the flow into the trust will diminish accordingly unless production doubles. Even with decreased income, however, the trust should surpass half a billion dollars before the close of the 20th century, and its earnings output will be increasingly significant in the state's budgetary process. With continued nourishment and protection against incursions to satisfy temporary expenditure demands, the permanent trust can be expected to become Montana's premier financial resource.

NOTES

¹ Telephone interview June 2, 1988, with Jeff States, New Mexico State Board of Finance

² Telephone interview May 31, 1988, with Phil Harris, mineral valuations section, Wyoming

³ Telephone interview June 1, 1988, with John Wolstad, North Dakota Legislative Council

⁴ Telephone interview June 1, 1988, with David Hoppenstedt, Louisiana state economist

⁵ Telephone interview June 2, 1988, with Narcisso, Tax Research Division, Minnesota Department of Revenue

⁶ Telephone interview June 2, 1988, with Don Mildenburger, Colorado state controller's office

⁷ Telephone interview June 2, 1988, with Mr. Graff, Research Division, Oregon Department of Revenue

APPENDIX B

STATE COAL SEVERANCE AND PRODUCTION TAXES--1987

STATE COAL SEVERANCE AND PRODUCTION TAXES - 1987

Source: State Tax Guide, Second Edition, Commerce
Clearing House

ALABAMA: Coal Severance Tax 13.5 cents a ton
 (tax will terminate upon the redemption
 of and payment of all accrued interest
 on bonds issued by the Alabama State
 Docks Department pursuant to Act 64,
 Laws 1971, for purpose of constructing
 any seaport facility or the final
 maturity of the bonds, excluding any
 bonds issued to refund any or all of the
 bonds then outstanding, whichever is
 later.)

Coal and Lignite Severance Tax an
 additional 20 cents a ton of coal or
 lignite severed.

Reports due 20 days after the end of
 each month. Any payment of tax due must
 accompany the report.

Local Taxes Coal severance tax of 50
 cents a ton is imposed by DeKalb County,
 Etowah County, and Jackson County. The
 State Department of Revenue collects
 these taxes at the same time as the
 state coal severance tax.

ARKANSAS: Natural Resources Severance Tax 2 cents
 a ton on coal and lignite.

Additional Tax 8 cents a ton on coal.

Reports from producers due on or before the 25th day of each month. Purchasers, unless relieved of the duty by the Commissioner of Revenues, must report within 20 days after the end of each month. Payment by producer is due when report is filed.

COLORADO:

Severance Tax 60 cents on each ton of coal. For each three points of change in the producers' price index for all commodities, the tax is increased or decreased 1%. Until July 1, 1990, the first 25,000 tons of coal produced in each quarter are exempt from tax; after that date the exemption is 8,000 tons a quarter.

Credit of 50% of the tax is allowed for production from underground mines and an additional credit of 50% of the tax is allowed for the production of lignitic coal.

Credit for Production from a new operation or from one which has an increase in production after June 30, 1980, is allowed:

- equal to the value of approved contributions by the taxpayer to assist in solving the impact problems caused by the new operation;

- an additional 0.75% of approved contributions for local impact assistance for each month that any approved contribution precedes the month in which the approved contribution is credited against a taxpayer's severance tax liability. Total approved contributions may not exceed 50% of the taxpayer's anticipated tax liability during the first 10 years of severance from the new or expanded operation.

Reports must be filed with the Department of Revenue by the 15th day of the fourth month after the end of the tax year.

Payment must accompany the return except that if the annual tax is expected to exceed \$1,000, estimated payments are due April 15, June 15, September 15, and December 15.

IDAHO: Mining License Tax includes coal.

Rate 2% of net value of product mined.

Report and Payment due by the 15th day of the fourth month after the close of the tax year.

KANSAS: Severance Tax an excise tax borne ratably by all producers in proportion to their respective beneficial interest in the production.

Rate is \$1 a ton.

Reports and Payments are due by the 20th day of the second month after production.

Mined Land Conservation and Reclamation Tax Persons holding surface coal mining and reclamation permits are charged a basic fee of \$50 plus a per-ton fee fixed by the Mined Land Conservation and Reclamation Board between 3 cents and 10 cents per ton of coal extracted each calendar year.

Payment is due 30 days after the beginning of each calendar quarter.

KENTUCKY:

Coal Severance Tax 4.5% of gross value with minimum of 50 cents a ton. "Gross value" is the amount received or receivable for coal severed and/or processed and sold during a reporting period; for coal severed and/or processed but not sold, gross value is:

(1) the contract price if the coal is to be sold under an existing contract;
or

(2) the fair market value for that grade and quality of coal if there is no existing contract.

Reports must be filed with the Department of Revenue on or before the

20th day of the month after the month in which the coal is severed and/or processed.

Payment must accompany the return.

LOUISIANA: Natural Resources Severance Tax 10
cents a ton on coal.

Reports must be filed by the last day of each month.

Payment must be made when the report is filed.

MARYLAND: Mine Reclamation Surcharge 9 cents for
each ton of coal removed by the open-pit or strip method assessed by the
Department of Natural Resources. In any county in which coal is removed, the
county fiscal authority assesses a 6-
cents-a-ton surcharge, payable monthly,
for each ton of coal removed by the
open-pit or strip method.

Local Coal Severance Tax The governing
body of Garrett County and any "code
county" must levy a severance tax of 30
cents a ton for each ton of surface-
mined coal between July 1, 1987, and
June 30, 1989. The tax is payable each
month and was reduced from 40 cents a
ton on July 1, 1987. The Tax was due to
expire on that date but was extended by
the 1987 Legislature for 2 years.

MISSOURI:

Land Reclamation Assessment on Surface Coal Mining Permittees Every surface coal mining permittee must pay a monthly assessment of:

- 30 cents a ton for the first 50,000 tons sold in a calendar year, and
- 20 cents a ton for the next 50,000 tons sold.
- Thereafter, no further assessment is due from a permittee during any calendar year. When the total balance in the land reclamation fund exceeds \$7 million at the close of the state's fiscal year, no assessment is required except from a new permittee, who must pay an assessment until his payments equal those made by an original permittee of comparable size. If the fund balance falls below \$7 million, all permittees must pay assessments. Whenever an expenditure is made from the fund for reclamation, a surcharge of 25% of the assessment rate is imposed in addition to the regular assessment rate and remains in effect until such expenses have been recovered or until the fund initially reaches \$3 million, whichever occurs first.

Payment is made monthly on the basis of coal shipped, sold, or otherwise disposed of.

MONTANA:

Severance Tax No severance tax is imposed on the first 50,000 tons of coal produced in a calendar year, except that if a taxpayer produces 50,000 tons in a calendar year he is liable for tax on all coal produced in excess of 20,000 tons at these rates:

Fiscal years 1988 and 1989		
Heating Quality (BTU Per Lb. of Coal)	Tax Rates	
	Surface Mining	Underground Mining
Under 7,000	12¢ or 20% of value	5¢ or 3% of value
7,000 to 8,000	22¢ or 30% of value	8¢ or 4% of value
8,000 to 9,000	34¢ or 30% of value	10¢ or 4% of value
Over 9,000	40¢ or 30% of value	12¢ or 4% of value
For fiscal year 1990		
Heating Quality (BTU Per Lb. of Coal)	Tax Rates	
	Surface Mining	Underground Mining
Under 7,000	12¢ or 13% of value	5¢ or 3% of value
7,000 to 8,000	22¢ or 25% of value	8¢ or 4% of value
8,000 to 9,000	34¢ or 25% of value	10¢ or 4% of value
Over 9,000	40¢ or 25% of value	12¢ or 4% of value
For fiscal year 1991 and thereafter		
Heating Quality (BTU Per Lb. of Coal)	Tax Rates	
	Surface Mining	Underground Mining
Under 7,000	12¢ or 13% of value	5¢ or 3% of value
7,000 to 8,000	22¢ or 20% of value	8¢ or 4% of value
8,000 to 9,000	34¢ or 20% of value	10¢ or 4% of value
Over 9,000	40¢ or 20% of value	12¢ or 4% of value

Since the Department of Revenue determined that the production and sale of coal in Montana between July 1, 1987, and June 30, 1988, exceeded 32.2 million tons (which is the average total yearly coal sales for calendar years 1983 through 1986), and since Chapter No. 608, L. 1987, required this level of production to further reduce the coal severance tax, the rate of the coal severance tax on each ton of coal produced in the state will be:

For coal produced from July 1, 1988, through June 30, 1990

Heating Quality (BTU Per Lb. of Coal)	Surface Mining	Underground Mining
Under 7,000	12¢ or 17% of value	5¢ or 3% of value
7,000 to 8,000	22¢ or 25% of value	8¢ or 4% of value
8,000 to 9,000	34¢ or 25% of value	10¢ or 4% of value
Over 9,000	40¢ or 25% of value	12¢ or 4% of value

For coal produced from July 1, 1990, through June 30, 1991

Heating Quality (BTU Per Lb. of Coal)	Surface Mining	Underground Mining
Under 7,000	12¢ or 13% of value	5¢ or 3% of value
7,000 to 8,000	22¢ or 20% of value	8¢ or 4% of value
8,000 to 9,000	34¢ or 20% of value	10¢ or 4% of value
Over 9,000	40¢ or 20% of value	12¢ or 4% of value

For coal produced after June 30, 1991

Heating Quality (BTU Per Lb. of Coal)	Surface Mining	Underground Mining
Under 7,000	12¢ or 13% of value	5¢ or 3% of value
7,000 to 8,000	22¢ or 15% of value	8¢ or 4% of value
8,000 to 9,000	34¢ or 15% of value	10¢ or 4% of value
Over 9,000	40¢ or 15% of value	12¢ or 4% of value

The formula yielding the greater amount of tax must be used at each point on the above schedule. "Value" means contract sales price and includes all royalties paid, except a portion as follows paid to the federal government, the State of Montana, or a recognized Indian tribe: for quarters ending on and after September 30, 1984, 15 cents a ton plus 75% of the difference between 15 cents a ton and the amount of federal, state, and tribal royalties paid; for quarters ending on and after September 30, 1985, 15 cents a ton plus 50% of the difference between 15 cents a ton and the amount of eligible royalties paid; for quarters ending on and after September 30, 1986, 15 cents a ton plus 25% of the difference between 15 cents a ton and the amount of eligible royalties paid; and for quarters ending on and after September 30, 1987, 15 cents a ton.

New Coal Production Incentive Tax Credit

Coal mine operators are entitled to a new coal production incentive tax credit equal to:

- (1) 33.3% of the tax for incremental production sold during calendar years 1985 and 1986;
- (2) 50% for incremental production sold from January 1, 1987, until June 30, 1988; and
- (3) 40% for incremental production sold from July 1, 1988, until June 30, 1990, but if the production quota on which the additional tax reductions are based is not met, the tax credit for this period is 50% for fiscal year 1989 and 40% for fiscal year 1990.

A coal mine operator is entitled to the new coal production incentive tax credit on incremental production for the entire term of an agreement if the incremental production resulted from coal purchases under an existing agreement that was extended between January 1, 1985, and December 31, 1988, for at least a 5-year period or under a new agreement that was executed between January 1, 1985, and December 31, 1988. The rates of credit allowed are identical to those shown in paragraphs (1), (2), and (3) above, and 25% for any incremental production sold

from July 1, 1990, until June 30, 1991, and 25% after June 30, 1991, if the production quota on which the additional tax reductions are based has not been met.

The effective tax rate on qualifying incremental production is 15% after the above credits are applied.

Reports of tonnage produced, average Btu value, contract sales price, and other information required by the Department of Revenue are due 30 days after the close of each calendar quarter.

Payment must accompany the quarterly report.

Resource Indemnity Trust Tax All producers of minerals from the surface or subsurface are subject to an annual tax based on the gross value of the product.

Rate is \$25 plus 0.5% of the gross value of the product if in excess of \$5,000.

Reports are due 60 days after the end of each calendar quarter.

Payment is due with the quarterly report.

NEW MEXICO: Resource Excise Tax is imposed for the privilege of severing and processing

natural resources. A "service tax" is also imposed on natural resources severed or processed and owned by another person that are not otherwise taxable, and the tax is the same as would be imposed on an owner of natural resources for performing the same function. No resource tax is due on any natural resource that is processed in New Mexico and on which the processors' tax has been paid.

Rates are: resource tax, 0.75%; processors' tax, 0.75%; service tax, 0.75%.

Reports must be filed by the payment due date which is the 25th of the month following the month in which the first of the following occurs: sale, transportation out of New Mexico, or consumption. If liability is less than \$100 a month, tax may be reported and paid semiannually.

Severance Tax The taxable value is gross value less rental or royalty payments belonging to the United States or New Mexico.

Rate Surface coal \$1.081 a ton (combination of 57 cents severance tax and 51.1 cents required surtax) and underground coal \$1.043 a ton (a combination of 55 cents severance tax and 49.3 cents required surtax). On

July 1 of each year, the rate is increased by a surtax equal to the increase in the consumer price index since 1976.

Reports and Payments are due by the 25th of the next month.

NORTH DAKOTA: Severance Tax is imposed on all coal severed for sale or for industrial purposed by coal mines within the state. Exempt is coal used primarily for heating buildings in the state, coal used by the state or any political subdivision, coal used for the generation of electricity for multiple uses, and coal used in agricultural processing or sugar beet refining plants located within North Dakota or adjacent states.

Rate is 75 cents a ton plus an additional 2 cents a ton between July 1, 1987, and June 30, 1989. The tax rate is reduced by 50% for coal burned in a cogeneration facility designed to use renewable resources to generate 10% or more of its energy output. (HB 1065, passed by the 1987 Legislature, reduced North Dakota's coal severance tax.)

Formerly the tax was imposed at the rate of 85 cents a ton plus 1 cent for each 4-point increase in the wholesale price index as determined semiannually by the State Tax Commissioner. For the first half of calendar year 1987, the total

rate was \$1.04 a ton.)

Reports and Payments are due within 25 days after the end of each month.

OHIO:

Severance Tax applicable at rate of 7 cents a ton plus an additional 1 cent a ton to pay the state's expenses in reclaiming coal-mined lands that the operator failed to reclaim. The 1-cent additional tax will cease to be imposed when, at the close of any fiscal year, revenues are sufficient to complete reclamation of such lands. A second additional tax of 1 cent a ton is imposed during any year in which it is necessary to bring the balance of the reclamation supplemental forfeiture account to \$2 million.

Reports and Payments are due within 45 days after the end of each calendar quarter except that the Tax Commissioner may order that payments be made weekly or more frequently if necessary.

SOUTH DAKOTA:

Severance Tax is imposed on "energy minerals" which means any mineral fuel used in the production of energy, including coal and lignite. The taxable value of any "energy mineral" that has:

- been sold is the sale price less any rental or royalty payment belonging to the United States or South Dakota or its political subdivisions, or

- not been sold is the market value less any rental or royalty payment due the United States or South Dakota or its political subdivisions.

Rate is 4.5% of taxable value.

Reports and Payments are due within 30 days after the end of each calendar quarter.

Conservation Tax of 2.4 mills of taxable value is also due on any energy minerals severed in the state.

TENNESSEE: Severance Tax is levied against every interest owner to the extent of his interest.

Rate 20 cents a ton.

Reports and Payments are due by the 15th of the month following accrual.

VIRGINIA: Coal Surface Mining Reclamation Tax is imposed by the Virginia Coal Surface Mining Control and Reclamation Act 30 days after the end of any calendar quarter during which the total balance in the coal surface mining reclamation fund is less than \$500,000, and all operators participating in the fund must pay:

(1) 2 cents per clean ton of coal produced by a surface mining operation;

(2) 1 cent per clean ton of coal produced by a deep mining operation; and

(3) 0.5 cent per clean ton of coal processed or loaded by preparation or loading facilities.

At the end of any calendar quarter during which the total balance in the fund, including interest thereon, exceeds \$1 million, payments will cease until again required. Any operator not having, prior to the date of filing an application for a coal surface mining permit, a minimum of 5 years of satisfactory coal surface mining operation in the commonwealth must pay applicable taxes at twice the rate for a period of one year from the date of issuance of the permit. No operator must pay reclamation tax on total coal production in excess of 5 million tons per calendar year regardless of the number of permits held by that operator. No operator holding more than one type of mining permit will pay tax at a rate in excess of 2.5 cents per ton on coal originally surface mined by that operator or in excess of 1.5 cents per ton on coal originally deep mined by that operator.

Payment is due 30 days after the end of each calendar quarter.

Local Coal Severance Tax A county may levy a tax of not more than 1% of the value of gross receipts of coal severed in the county. Proceeds go into a local road improvement fund. (Information from Virginia Legislative Services 7/15/87.)

WEST VIRGINIA: Severance Tax imposed on the gross value of the production, as shown by the gross proceeds derived from the sale thereof by the producer, at the following rates, including an additional severance tax of 0.35% on coal for the benefit of counties and municipalities beginning on:

July 1, 1987 - 3.85%

July 1, 1988 - 3.88%

July 1, 1989 - 3.91%

July 1, 1990 - 3.94%

July 1, 1991 - 3.97%

July 1, 1992, and thereafter - 4%.

Every taxpayer is allowed an annual credit of \$500 against the taxes due, to be applied at the rate of \$41.67 per month for each month the taxpayer was engaged in business in the state exercising a taxable privilege.

A credit is allowed for business investment and jobs expansion, industrial expansion and revitalization, research and development projects, coal loading facilities and, after June 30,

1987, housing development projects.

A credit is allowed for any coal coking facility company granted a low-interest loan by the Office of Community and Industrial Development, for the building of coal processing facilities for the making of coke for steel production. The credit is allowed for 5 years from the date the reduced-rate loan is issued.

Reports and Payments are to be filed with the Tax Commissioner. An annual return is due on or before the expiration of one month after the end of the tax year.

Taxes are due and payable in periodic installments: for taxpayers whose estimated liability exceeds \$1,000 a month, the tax is due and payable in monthly installments on or before the last day of the month following the month in which the tax accrued; for taxpayers whose estimated tax liability is \$1,000 a month or less, the tax is due and payable in quarterly installments on or before the last day of the month following the quarter in which the tax accrued.

WYOMING:

Mining Excise and Severance Taxes

Persons extracting trona, coal, petroleum, natural gas, oil shale, any other fossil fuel, or any valuable

deposit must pay an excise tax based on the value of the gross product extracted. In addition, a severance tax is levied upon the privilege of extracting or producing coal based on a percentage of the value of the gross product of the coal extracted or produced. The Department of Revenue and Taxation computes the value of the gross production returned for the preceding calendar year, computes the amount of tax levied, and notifies each taxpayer of the amount due on or before the first weekday in July.

Rates--Coal Excise Tax Coal produced during the year (effective until January 1 next following the year in which revenue produced by this tax totals \$160 million) 2%. (The \$160 million threshold was passed last year with prepayment of anticipated taxes by coal producers. Litigation now in the courts seeks to determine if the 2% increment should be eliminated at the beginning of 1987 or 1988. Reduction of the total tax rate from 10.5% to 8.5% is assured, however, no later than the beginning of 1988.)

Mineral Excise Taxes Uranium, trona, coal (except underground coal), petroleum, natural gas, oil shale, or any other fossil fuel - 2%.

Additional tax on any valuable deposits

(except stripper production and underground coal) - 2%.

Additional excise tax on trona, coal (except underground coal), and uranium (effective until January 1 next following the year in which revenue produced by this tax totals \$250 million) - 1.5%.

Additional excise tax on the privilege of extracting coal (except underground coal) - 3%.

Underground coal - 7.25%.

Enactment of HB No. 330 (Chapter 97) by the 1987 Wyoming Legislature provides a contingent ceiling on mineral excise taxes as applied to coal. When the application of mineral excise taxes results in a tax of more than 80 cents per ton of coal, the coal is exempt from the tax that exceeds 80 cents per ton. This exemption is applicable to:

- (1) new agreements entered into between March 31, 1987, and March 31, 1989, if the application of taxes results in a tax in excess of 80 cents on a ton of coal at the time the agreement is entered and the coal is first produced under the agreement; production and delivery of coal actually commences under the agreement between March 31,

1987, and March 31, 1989; the coal is transported and consumed outside the borders of Wyoming; and the new contract or agreement is not the result of the purchaser breaching a contract with another Wyoming producer; or

- (2) a contract or agreement that existed on January 1, 1987, or a modification to that contract or agreement occurring between March 31, 1987, and March 31, 1989, between a Wyoming coal producer and a purchaser for consumption in an electrical generating facility located in Wyoming to the extent that the producer's annual production and deliveries under the contract exceeds the average annual tonnage of coal delivered during calendar years 1985 and 1986. The exemption applies to the amount of additional coal produced in calendar year 1987 or 1988 and thereafter, so long as the additional coal is produced and delivered annually. If the annual deliveries after calendar year 1988 fall below the average of the 1985 and 1986 production, the exemption will no longer apply even if subsequent production exceeds the average of the 1985 and 1986 production.

Collection Quarterly tax payments are due May 15 for first quarter production, August 15 for second quarter production, November 15 for third quarter production, and March 1 for fourth quarter production. Annually by May 15 the Department of Revenue and Taxation will determine the gross production returned for the preceding year and compute tax liabilities. Quarterly taxes paid will be credited and each taxpayer will be notified of the amount so determined and the balance or refund due. Any balance due is delinquent if not paid within 30 days after receipt of notification. Quarterly payment requirements may be waived for taxpayers whose tax for the preceding year was less than \$2,000.

APPENDIX C

COAL SEVERANCE TAX PROCEEDS AND DISTRIBUTIONS,

TRUST FUND EARNINGS

COAL SEVERANCE TAX PROCEEDS AND DISTRIBUTIONS,
TRUST FUND EARNINGS

The following tabulations and graphs prepared by the Governor's Office of Budget and Program Planning provide a yearly analysis of the proceeds of the coal severance tax since its enactment in 1975 and of the distribution of that money and the purposes for which it was appropriated.

Also included is a yearly analysis of the earnings of the various trust funds created from coal severance tax proceeds.

7/1/87
44499 - OBPP

OFFICE OF BUDGET & PROGRAM PLANNING
COAL SEVERANCE TAX ANALYSIS

WVS-COAL TAX
COAL SEVERANCE TAX COLLECTIONS

ACCT. ENTITY	ACCOUNT NAME	ACTUAL FY 76	ACTUAL FY 77	ACTUAL FY 78	ACTUAL FY 79	ACTUAL FY 80	ACTUAL FY 81	ACTUAL FY 82	ACTUAL FY 83	ACTUAL FY 84	ACTUAL FY 85	ACTUAL FY 86	PRELIMINARY TOTALS	ESTIMATED FY 88	ESTIMATED FY 89	
01100	GENERAL FUND	10,584,355	14,342,422	11,241,695	12,006,012	20,222,579	13,370,906	16,375,581	15,200,546	15,736,452	17,422,283	20,001,580	17,290,764	104,643,985	10,130,414	0,690,214
02403	PUBLIC SCHOOL EQUALIZATION	2,203,181	3,590,606	2,810,392	3,201,679	5,210,070	3,520,751	4,309,342	4,002,249	4,141,172	4,507,443	4,210,841	10,104,150	51,091,096	11,110,776	9,531,282
02405	STATE LIBRARY	0	0	0	0	383,540	352,075	430,934	400,225	414,117	458,744	421,086	336,005	3,197,554	251,375	215,630
02424	HIGHWAY RECONSTRUCTION TRUST	0	0	0	0	0	0	0	0	0	0	1,604,344	5,940,016	7,424,360	7,930,159	6,809,423
02424	HIGHWAY RECONSTRUCTION TRUST	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02434	CONSERVATION DISTRICTS	0	0	0	0	0	0	99,325	200,112	207,059	229,372	210,543	160,403	1,114,014	125,600	107,019
02437	ALTERNATIVE ENERGY RESEARCH	550,795	897,651	702,598	800,420	1,514,667	1,740,376	2,055,346	1,001,012	1,043,327	2,044,349	1,052,715	842,013	15,995,449	1,131,100	970,371
02444	COUNTY LAND PLANNING	220,310	359,061	201,039	320,160	521,007	352,075	430,934	400,225	414,117	458,744	421,086	336,005	4,515,579	251,375	215,630
02445	LOCAL IMPACT	3,055,567	4,203,560	4,790,525	5,399,195	9,030,162	4,161,314	7,541,349	7,003,936	7,247,050	8,020,625	2,526,516	2,020,830	69,096,029	1,045,500	842,552
04008	RENEWABLE RESOURCES BOND	550,795	897,651	702,598	800,420	1,502,510	880,100	1,077,336	1,000,562	624,224	573,430	526,350	421,006	9,357,086	314,219	269,540
04011	WATER DEVELOPMENT	0	0	0	0	0	0	0	0	411,669	573,430	526,350	421,006	1,931,863	314,219	269,540
09001	PERMANENT TRUST	0	0	6,268,016	10,672,277	23,024,226	35,207,511	43,093,423	40,022,491	41,411,716	45,074,420	42,100,407	30,273,297	325,955,992	33,075,662	28,373,420
09004	PAGE ACQUISITION TRUST	275,390	440,826	351,299	400,210	2,009,639	1,740,376	2,154,671	2,001,125	2,070,545	2,293,721	2,105,430	391,477	16,342,737	0	0
09005	EDUCATION TRUST	2,203,181	3,590,606	2,742,014	3,005,254	8,995,772	7,041,502	8,610,685	8,004,498	9,282,343	9,174,006	8,421,721	0	70,160,462	0	0
	ACQUISITION OF SITES & AREAS	275,390	440,826	351,299	400,210	171,799	0	0	0	0	0	0	0	1,647,532	0	0
	COAL AREA HIGHWAY IMPROVEMENT	2,203,181	3,590,606	3,374,514	4,162,183	1,706,700	0	0	0	0	0	0	0	15,117,192	0	0
	COUNTIES	1,040,493	1,436,242	748,076	640,336	872,294	0	0	0	0	0	0	0	4,737,441	0	0
	AGRICULTURE ACT	0	0	0	0	0	0	0	0	0	0	0	0	502,750	431,276	
	TOTAL TAXES	23,964,642	35,906,057	34,372,065	42,609,164	75,125,009	70,415,074	84,186,844	80,044,981	82,023,411	91,740,055	84,217,219	76,546,594	784,039,911	66,151,325	56,744,057

IRS-COAL TAX

OFFICE OF BUDGET & PROGRAM PLANNING
COAL SEVERANCE TAX ANALYSIS

COAL SEVERANCE TAX INTEREST COLLECTIONS

ACCT ENTITY	ACCOUNT NAME	ACTUAL FY 76	ACTUAL FY 77	ACTUAL FY 78	ACTUAL FY 79	ACTUAL FY 80	ACTUAL FY 81	ACTUAL FY 82	ACTUAL FY 83	ACTUAL FY 84	ACTUAL FY 85	ACTUAL FY 86	PRELIMINARY FY 87	CUMULATIVE TOTALS	ESTIMATED FY 88	ESTIMATED FY 89
EDUCATION TRUST EARNINGS																
02403	PUBLIC SCHOOL EQUALIZATION	0	43,076	348,669	447,263	382,832	1,172,439	2,376,417	8,230,193	3,107,378	3,877,017	7,739,479	8,014,032	39,762,337	2,783,000	1,397,000
02022	BOARD OF RECENTS	0	13,023	116,223	149,888	194,284	398,886	792,139	2,743,343	1,782,328	1,953,886	2,384,493	2,471,611	13,320,846	981,000	444,000
02013	EDUCATION TRUST/NO-TECH/ABE	0	6,478	31,635	66,242	84,348	173,727	332,062	1,219,342	736,678	870,669	1,149,352	1,181,383	5,920,376	400,000	201,000
02053																
PERMANENT TRUST EARNINGS																
01100	CEREBRAL FUND	0	0	84,801	712,163	2,110,130	3,699,866	11,726,303	18,320,100	18,947,636	24,899,982	32,443,208	38,223,848	132,179,879	34,644,000	29,483,000
09001	PERMANENT TRUST	0	0	0	0	0	0	0	0	3,343,701	4,372,134	3,123,018	0	13,440,853	748,000	810,000
PARS ACQUISITION TRUST EARNINGS																
02408	FISH WILDLIFE & PARS	0	0	0	104,007	233,740	490,378	332,367	633,842	618,693	987,136	1,482,113	1,143,288	6,463,366	1,143,000	1,166,000
02009	MONTANA ARTS COUNCIL	0	0	0	0	0	0	276,184	316,931	349,346	493,348	846,931	371,338	2,888,318	372,000	300,000
TOTAL INTEREST																
		0	66,779	683,348	1,470,787	3,233,334	7,327,436	16,073,472	31,664,313	30,784,138	38,839,434	32,186,796	31,814,320	234,098,617	43,113,000	44,303,000

TRUST BALANCES AS OF 6/30/87

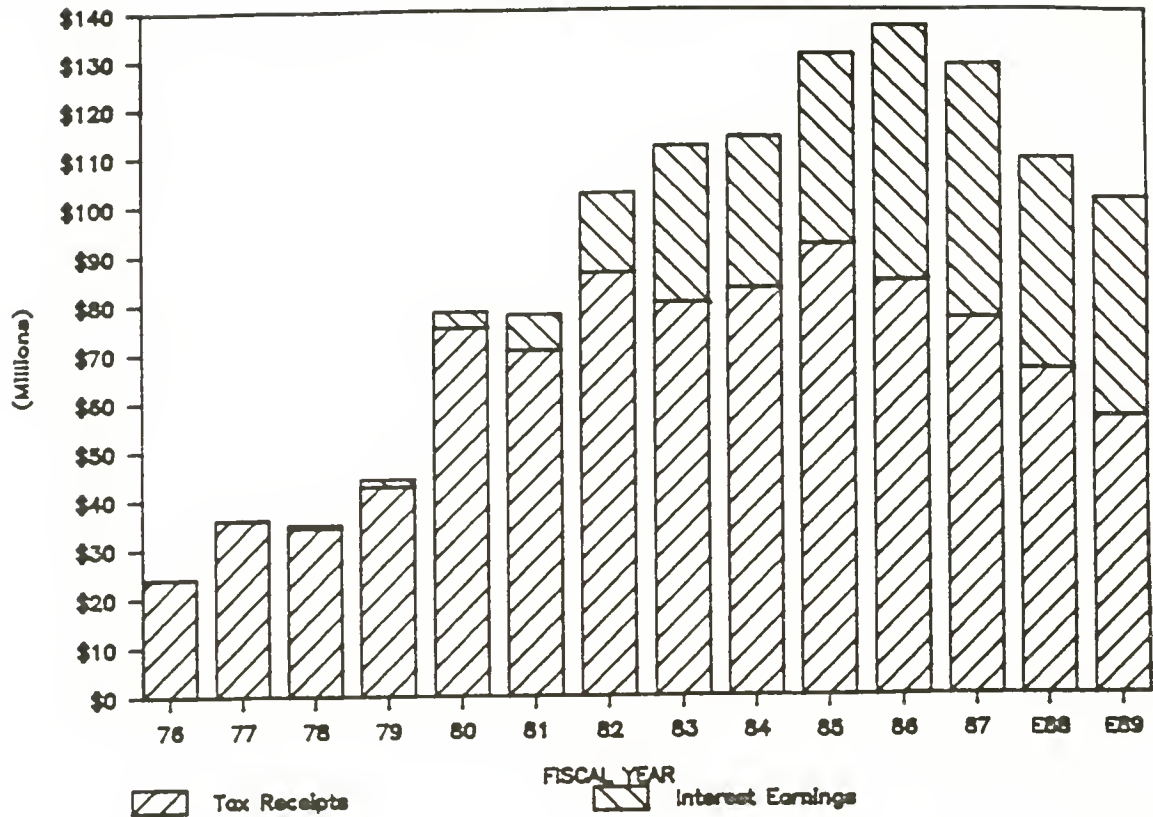
PERMANENT TRUST	281,989,973
PERMANENT TRUST - IM-STATE	41,637,413
PARS ACQUISITION TRUST	16,613,498
EDUCATION TRUST	43,443,636
TOTAL	383,704,634

OFFICE OF BUDGET & PROGRAM PLANNING
COAL SEVERANCE TAX ANALYSIS

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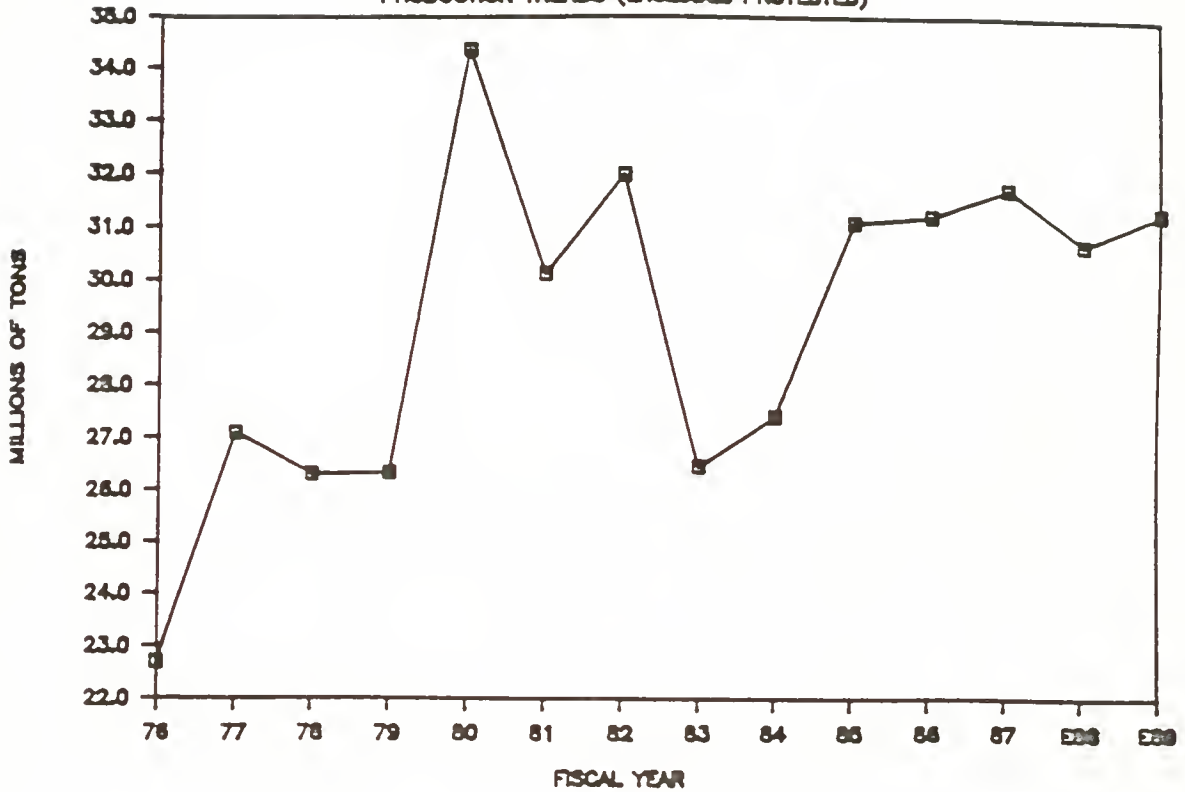
COAL SEVERANCE TAX

TAX RECEIPTS & INTEREST EARNINGS



FY	TAX RECEIPTS	INTEREST EARNINGS	TOTAL RECEIPTS
76	23,964,642	0	23,964,642
77	35,906,057	66,779	35,972,836
78	34,372,065	603,348	34,975,413
79	42,689,164	1,478,787	44,167,951
80	75,125,009	3,235,354	78,360,363
81	70,415,074	7,327,456	77,742,530
82	86,186,846	16,075,472	102,262,318
83	80,044,981	31,664,513	111,709,494
84	82,823,411	30,786,158	113,609,569
85	91,748,855	38,859,434	130,608,289
86	84,217,213	52,186,796	136,404,009
87	76,546,594	51,814,520	128,361,114
E88	66,151,325	43,113,000	109,264,325
E89	56,746,857	44,305,000	101,051,857

COAL SEVERANCE TAX PRODUCTION TRENDS (EXCLUDES PROTESTED)



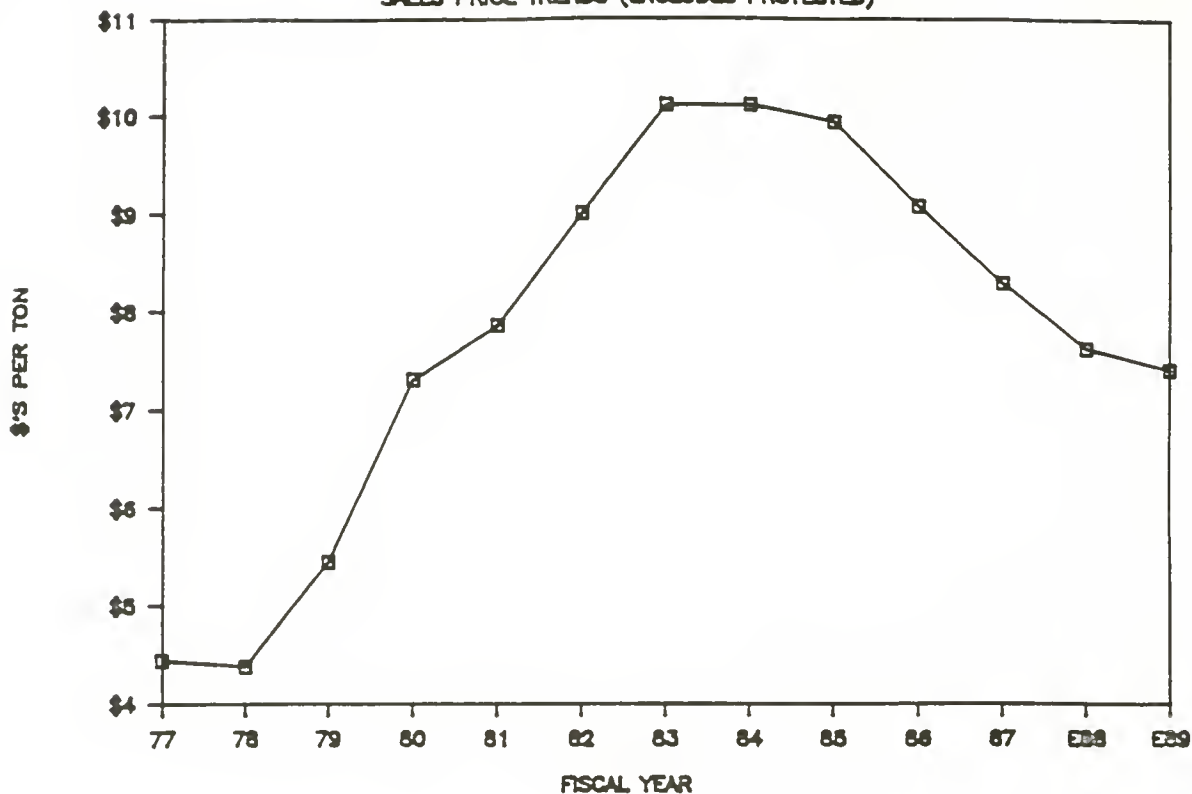
ALL COMPANIES

ALL COMPANIES LESS PROTESTED

YR	FISCAL TONS	YEAR PRICE	FISCAL TONS	YEAR PRICE
75	15.890258	NA	15.890258	NA
76	22.695668	NA	22.695668	NA
77	27.068237	4.439	27.068237	4.439
78	26.294212	4.378	26.294212	4.378
79	26.319401	5.435	26.319401	5.435
80	34.359911	7.301	34.359911	7.301
81	30.089527	7.857	30.089527	7.857
82	31.936319	9.005	31.936319	9.005
83	27.798123	9.980	26.448308	10.102
84	30.187874	9.868	27.399521	10.102
85	33.504681	9.731	31.002172	9.930
86	32.946439	8.979	31.119028	9.070
87	32.865112	8.209	31.644973	8.284
88	32.575028	7.521	30.620972	7.618
89	33.704932	7.297	31.231548	7.411

COAL SEVERANCE TAX

SALES PRICE TRENDS (EXCLUDES PROTESTED)

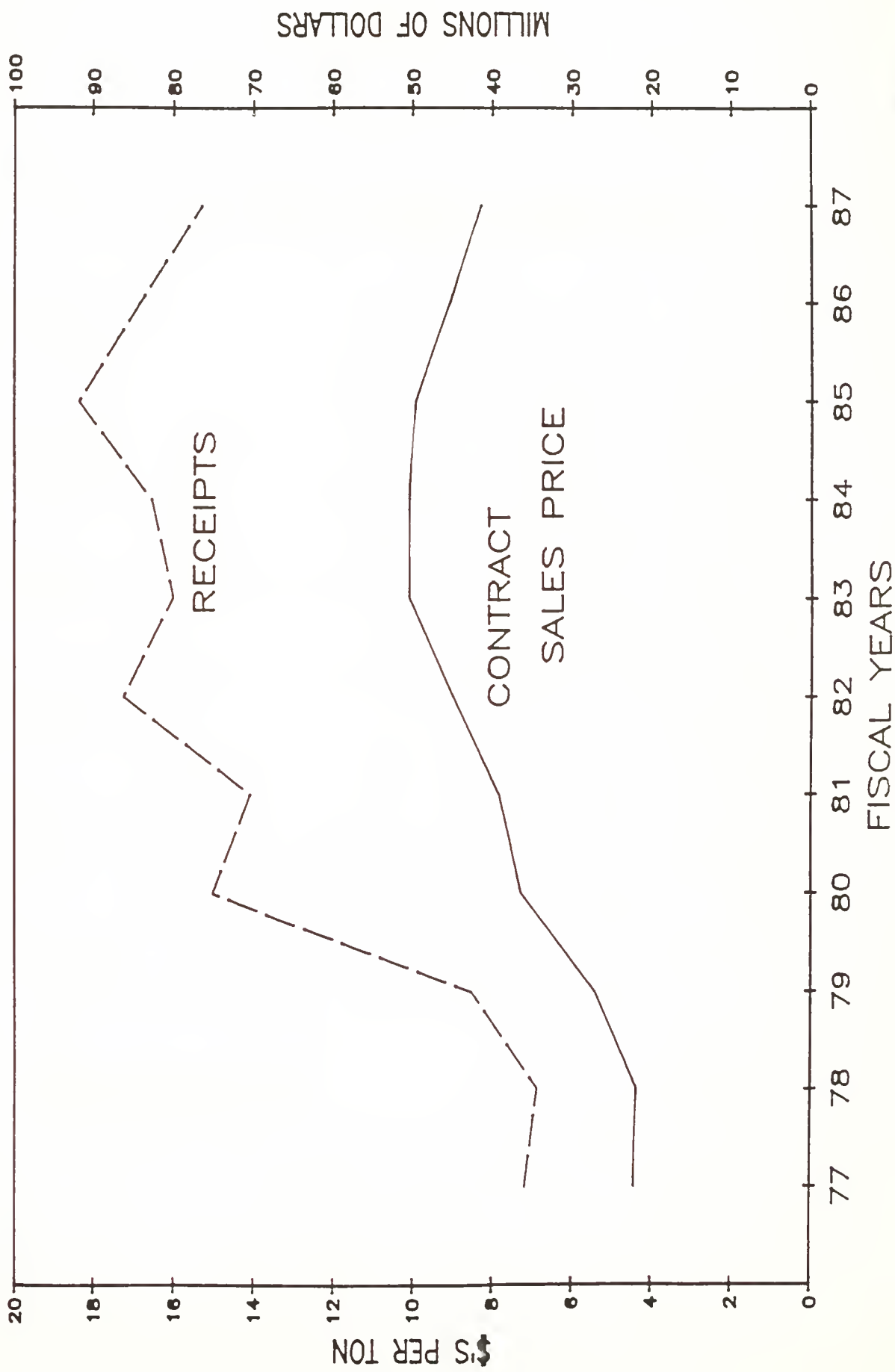


ALL COMPANIES

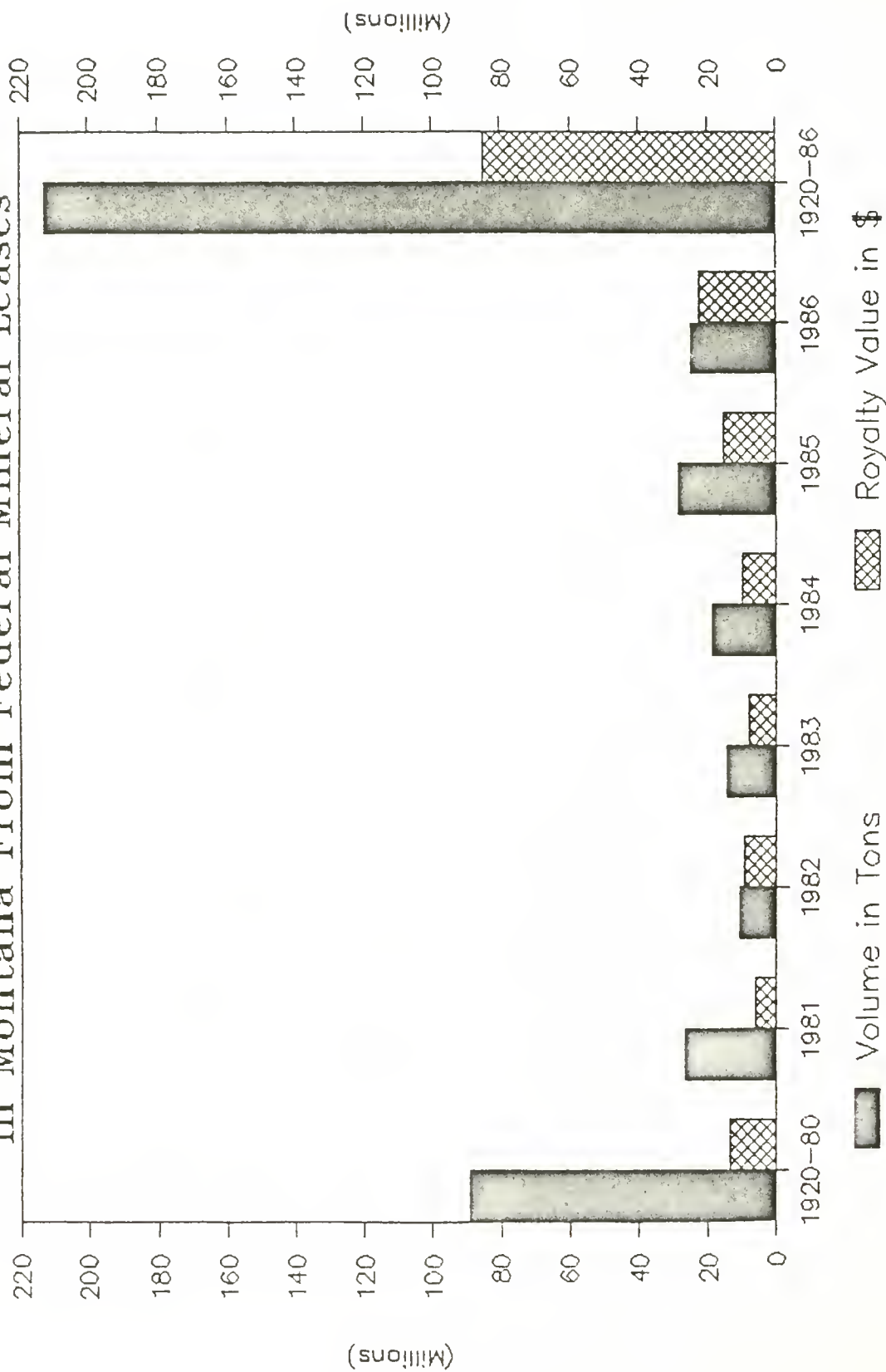
ALL COMPANIES LESS PROTESTED

YR	FISCAL TONS	YEAR PRICE	FISCAL TONS	YEAR PRICE
75	15.890258	NA	15.890258	NA
76	22.695668	NA	22.695668	NA
77	27.068237	4.439	27.068237	4.439
78	26.294212	4.378	26.294212	4.378
79	26.319401	5.435	26.319401	5.435
80	34.359911	7.301	34.359911	7.301
81	30.089527	7.857	30.089527	7.857
82	31.936319	9.005	31.936319	9.005
83	27.798123	9.980	26.448308	10.102
84	30.187874	9.868	27.399521	10.102
85	33.504681	9.731	31.002172	9.930
86	32.946439	8.979	31.119028	9.070
87	32.865112	8.209	31.644973	8.284
88	32.575028	7.521	30.620972	7.618
89	33.704932	7.297	31.231548	7.411

COAL SEVERANCE TAX PRICE TRENDS VERSUS TAX RECEIPTS



Volume & Royalty Value of Coal Produced in Montana From Federal Mineral Leases



Source: Minerals Management Service, U.S. Dept. of the Interior

Table 10

ALLOCATIONS OF COAL SEVERANCE TAX PROCEEDS
By Percentages of Total Collections
For Periods Beginning:

PURPOSE -----	7-1-75 -----	7-1-77 -----	7-1-79 -----	1-1-80 -----	7-1-81 -----	7-1-83 -----	7-1-85 -----	7-1-86 -----	7-1-87 -----	7-1-89 -----
Permanent Trust	0.000%	25.000%	25.000%	50.000%	50.000%	50.000%	50.000%	50.000%	50.000%	50.000%
Highway Reconstruction	0.000	0.000	0.000	0.000	0.000	0.000	2.000	7.760	12.000	12.000
County Where Coal Produced	4.000	1.500	1.500	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Alternative Energy Research	2.500	1.880	1.880	2.500	2.250	2.250	1.250	1.100	1.710	1.710
Local Impact & Education Trust	27.500	19.880	28.130	18.750	18.750	18.750	13.000	2.640	0.000	0.000
Local Impact	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.520	6.650
Education Trust	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	7.600
Coal Area Highways	10.000	9.750	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Public School Equalization	10.000	7.500	7.500	5.000	5.000	5.000	5.000	13.200	16.800	3.800
County Land Planning	1.000	0.750	0.750	0.500	0.250	0.500	0.500	0.440	0.380	0.380
Renewable Resource Development Bond	2.500	1.880	1.880	1.250	1.250	0.625	0.625	0.550	0.475	0.475
Parks, Cultural Projects	2.500	1.880	3.750	2.500	2.500	2.500	2.500	0.000	0.000	1.900
Libraries	0.000	0.000	0.750	0.750	0.500	0.250	0.500	0.440	0.380	0.380
Conservation Districts	0.000	0.000	0.000	0.000	0.250	0.250	0.250	0.220	0.190	0.190
Water Development	0.000	0.000	0.000	0.000	0.000	0.250	0.625	0.550	0.475	0.475
Growth in Agriculture	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.760	0.760
General Fund	40.000	29.980	28.860	18.750	19.000	19.000	23.750	23.100	15.310	13.680

COLUMNS MAY NOT ADD BECAUSE OF ROUNDING

NA=NO ALLOCATION FOR THIS PERIOD

TABULATION PREPARED FOR COAL TAX OVERSIGHT SUBCOMMITTEE BY PAUL E. VERDON, STAFF RESEARCHER, JUNE 22, 1988

Table 11

SEVERANCE TAX COLLECTIONS 1986

Source: U. S. Department of Commerce, Bureau of the Census, State Government Tax Collections in 1986

(In \$000s)

<u>State</u>	<u>Coal</u>	<u>All Minerals</u>
Texas		\$1,552,130
Alaska		1,432,911
Louisiana		619,671
Oklahoma		571,375
Wyoming	\$131,737	387,392
New Mexico		367,214
Kentucky	198,526	229,296
North Dakota	26,809	146,971
Florida		170,902
Montana	84,217	129,934
Mississippi		72,925
Minnesota		9,501
Michigan		52,821
Alabama	8,426	75,070
Oregon		32,415
Washington		36,998
California		19,915
Arkansas		22,158
Colorado	9,068	22,557
Utah		43,905
South Dakota		5,613
Nebraska		4,037
Ohio	1,873	9,865
Tennessee	1,537	2,321
Kansas	679	102,108
Indiana		1,253
Virginia		1,600
North Carolina		1,436
Wisconsin		834
Idaho		522
New Hampshire		485
Missouri		31

APPENDIX D

DISTRIBUTION OF FEDERAL COAL ROYALTIES

DISTRIBUTION OF FEDERAL COAL ROYALTIES

Source: Mineral Revenues: The 1985 Report on Receipts from Federal and Indian Lands, U.S. Department of the Interior, Minerals Management Service, Royalty Management Program

Public Lands - The royalty revenues collected from public land leases are distributed directly to states or paid into either special funds or the general fund of the United States Treasury.

Except for Alaska, whose share is 90%, each state receives 50% of all rents, bonuses, and royalties collected from any public land leases located within its boundaries, exclusive of the windfall profit tax on crude oil, which is deducted before any allocation is made. The remaining mineral revenues from public land leases go to the reclamation fund, which gets 40%, and the general fund, which gets 10%.

In 1985, disbursements of revenue from federal mined leases to 27 states totaled \$548,937,473 while \$416,358,713 went to the reclamation fund, \$84,953,079 to the general fund, and \$99,194,771 to the Windfall Profit Tax.

Acquired Lands - All rents, royalties, and bonuses for leases issued under the 1947 Mineral Leasing Act for Acquired Lands are collected by Minerals Management Service on behalf of the U.S. Forest Service. Royalty revenues from leases within a national forest are distributed as follows: 25% to the state in which the mineral resource is produced; 10% to the Forest, Roads, and Trails Fund; and 65% to the general fund of the U.S. Treasury.

Receipts from other acquired lands are deposited in a general Treasury account. In some instances the funds revert to the agency that has administrative jurisdiction over the land.

Producing Coal Leases - In Montana, as of December 31, 1985, 11 federal coal leases encompassed 27,943 acres.

Summary of Volume and Royalty Value of Coal
Produced in Montana from Federal Mineral Leases

Source: Telephone conversation Aug. 28, 1987,
with Steve Rawlings, Minerals Management Service,
Denver

	<u>Volume</u>	<u>Coal in Tons</u> <u>Market Value</u>	<u>Coal Royalties</u> <u>Received</u>
1920-80	88,957,464	\$ 446,151,929	\$13,717,079
1981	26,726,838	324,259,233	6,245,099
1982	10,651,879	110,665,774	9,516,623
1983	14,334,618	225,181,755	7,946,687
1984	18,696,290	289,792,495	9,708,668
1985	28,390,085	297,466,328	15,173,896
1986	24,681,884	311,291,759	22,446,731
1920-86	212,439,058	\$2,004,809,273	\$84,754,783

Allocations Under Montana Law

Between 1977 and 1986, Montana Law (sections 17-3-201 and 20-9-343, MCA), required that the share of federal mineral royalties returned to the state treasury be allocated 62½% to the state equalization fund for the public schools' Foundation Program and 37½% to the state highway account.

In the June 1986 Special Session, section 17-3-201, MCA, was repealed, thereby eliminating any allocation of federal mineral royalties to highway uses, and section 20-9-343 was amended to require that 100% of federal mineral royalties be deposited in the equalization fund.

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